

Assembly Bill No. 1544

CHAPTER 793

An act to amend Section 1228.1 of the Evidence Code, to amend Sections 8614, 8700, and 8715 of, and to add Sections 8714.5 and 8714.7 to, the Family Code, to amend Sections 1502 and 1505 of, and to add Section 1505.2 to, the Health and Safety Code, and to amend Sections 309, 319, 355, 358.1, 361, 361.3, 361.5, 366, 366.21, 366.22, 366.23, 366.26, 366.3, 387, 11400, 16206, and 16501.1 of, and to add Section 316.2 to, the Welfare and Institutions Code, relating to minors.

[Approved by Governor October 8, 1997. Filed
with Secretary of State October 9, 1997.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1544, Committee on Human Services. Dependent children and foster youth.

(1) Existing law authorizes the juvenile court, in considering the disposition of a case of a child who is removed from the physical custody of his or her parents, to give preferential consideration to a request for placement of the child with a relative.

This bill would declare the intent of the Legislature to, among other things, remove barriers to adoption by relatives of children currently in, or at risk of entering, the dependency system. The bill would authorize a relative of a minor to file a petition for adoption, would authorize the relative, the birth relatives of a minor, including the parents of the minor, and the minor to enter into a kinship adoption agreement, as specified, and would establish procedures for the enforcement, modification, and termination of the agreements. It would require that if the minor has been found to come within the dependency jurisdiction of the juvenile court or is the subject of a petition for dependency jurisdiction he or she shall be represented by an attorney for purposes of consent to a kinship adoption agreement.

The bill also would make various changes in the law relating to dependency proceedings, including specifying additional circumstances in which reunification services need not be provided and revising the factors a court must consider when determining the appropriateness of the placement of a minor who is taken from the custody of his or her parents with a relative. It would specifically provide that these services may be provided to a statutorily presumed or biological father, as specified. It also would require the juvenile court, at the detention hearing of a minor alleged to come within the dependency jurisdiction of the court or as soon thereafter as practicable, to conduct an inquiry, as specified, of the identity and

address of all presumed or alleged fathers. If one or more men are identified as an alleged father, the bill would require that they be provided notice alleging that they are or may be the father of the child, as specified. The bill would provide that while a dependency action for a child is pending, the dependency court would have exclusive jurisdiction to hear an action to determine a father and child relationship in that case.

The bill would also provide that at a jurisdictional hearing to determine whether a minor may be a dependent child of the court, objections which could have been made to evidence shall be deemed to have been made by any parent or guardian present at the hearing and unrepresented by counsel, except as specified. The bill would make a similar provision with respect to any unrepresented child.

Because the bill would impose new or increased duties on local officials, it would create a state-mandated local program.

(2) Existing law defines a foster family home as a residential facility providing 24-hour care for 6 or fewer foster children, as specified. Existing law regulates these facilities.

This bill would permit a foster family home to include more than 6 children for the purpose of placing sibling or half siblings together in foster care, under specified conditions, for purposes of those provisions.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

The people of the State of California do enact as follows:

SECTION 1. Section 1228.1 of the Evidence Code is amended to read:

1228.1. (a) Except as provided in subdivision (b), neither the signature of any parent or legal guardian on a child welfare services case plan nor the acceptance of any services prescribed in the child welfare services case plan by any parent or legal guardian shall constitute an admission of guilt or be used as evidence against the parent or legal guardian in a court of law.

(b) A parent's or guardian's failure to cooperate, except for good cause, in the provision of services specified in the child welfare services case plan may be used as evidence, if relevant, in any hearing



held pursuant to Section 366.21, 366.22, or 388 of the Welfare and Institutions Code and at any jurisdictional or dispositional hearing held on a petition filed pursuant to Section 300, 342, or 387 of the Welfare and Institutions Code.

SEC. 2. Section 8614 of the Family Code is amended to read:

8614. Upon the request of the adoptive parents or the adopted child, a county clerk may issue a certificate of adoption that states the date and place of adoption, the birthday of the child, the names of the adoptive parents, and the name the child has taken. Unless the child has been adopted by a stepparent or by a relative, as defined in subdivision (c) of Section 8714.7, the certificate shall not state the name of the birth parents of the child.

SEC. 3. Section 8700 of the Family Code is amended to read:

8700. (a) Either birth parent may relinquish a child to the department or a licensed adoption agency for adoption by a written statement signed before two subscribing witnesses and acknowledged before an authorized official of the department or agency. The relinquishment, when reciting that the person making it is entitled to the sole custody of the child and acknowledged before the officer, is prima facie evidence of the right of the person making it to the sole custody of the child and the person's sole right to relinquish.

(b) A relinquishing parent who is a minor has the right to relinquish his or her child for adoption to the department or a licensed adoption agency, and the relinquishment is not subject to revocation by reason of the minority.

(c) If a relinquishing parent resides outside this state and the child is being cared for and is or will be placed for adoption by the department or a licensed adoption agency, he or she may relinquish the child to the department or agency by a written statement signed by the relinquishing parent before a notary on a form prescribed by the department, and previously signed by an authorized official of the department or agency, which signifies the willingness of the department or agency to accept the relinquishment.

(d) The relinquishment authorized by this section has no effect until a certified copy is filed with the department. Upon filing with the department, the relinquishment is final and may be rescinded only by the mutual consent of the department or licensed adoption agency to which the child was relinquished and the birth parent or parents relinquishing the child.

(e) The relinquishing parent may name in the relinquishment the person or persons with whom he or she intends that placement of the child for adoption be made by the department or licensed adoption agency.

(f) Notwithstanding subdivision (d), if the relinquishment names the person or persons with whom placement by the department or licensed adoption agency is intended and the child is not placed in

the home of the named person or persons or the child is removed from the home prior to the granting of the adoption, the department or agency shall mail a notice by certified mail, return receipt requested, to the birth parent signing the relinquishment within 72 hours of the decision not to place the child for adoption or the decision to remove the child from the home.

(g) The relinquishing parent has 30 days from the date on which the notice described in subdivision (f) was mailed to rescind the relinquishment.

(1) If the relinquishing parent requests rescission during the 30-day period, the department or licensed adoption agency shall rescind the relinquishment.

(2) If the relinquishing parent does not request rescission during the 30-day period, the department or licensed adoption agency shall select adoptive parents for the child.

(3) If the relinquishing parent and the department or licensed adoption agency wish to identify a different person or persons during the 30-day period with whom the child is intended to be placed, the initial relinquishment shall be rescinded and a new relinquishment identifying the person or persons completed.

(h) If the parent has relinquished a child, who has been found to come within Section 300 of the Welfare and Institutions Code or is the subject of a petition for jurisdiction of the juvenile court under Section 300 of the Welfare and Institutions Code, to the department or a licensed adoption agency for the purpose of adoption, the department or agency accepting the relinquishment shall provide written notice of the relinquishment within five court days to all of the following:

(1) The juvenile court having jurisdiction of the child.

(2) The child's attorney, if any.

(3) The relinquishing parent's attorney, if any.

(i) The filing of the relinquishment with the department terminates all parental rights and responsibilities with regard to the child, except as provided in subdivisions (f) and (g).

SEC. 4. Section 8714.5 is added to the Family Code, to read:

8714.5. (a) The Legislature finds and declares the following:

(1) It is the intent of the Legislature to expedite legal permanency for children who cannot return to their parents and to remove barriers to adoption by relatives of children who are already in the dependency system or who are at risk of entering the dependency system.

(2) This goal will be achieved by empowering families, including extended families, to care for their own children safely and permanently whenever possible, by preserving existing family relationships, thereby causing the least amount of disruption to the child and the family, and by recognizing the importance of sibling and half-sibling relationships.

(b) A relative desiring to adopt a child may for that purpose file a petition in the county in which the petitioner resides. Where a child has been adjudged to be a dependent of the juvenile court pursuant to Section 300 of the Welfare and Institutions Code, and thereafter has been freed for adoption by the juvenile court, the petition may be filed either in the county where the petitioner resides or in the county where the child was freed for adoption.

(c) Upon the filing of a petition for adoption by a relative, the county clerk shall immediately notify the State Department of Social Services in Sacramento in writing of the pendency of the proceeding and of any subsequent action taken.

(d) If the adopting relative has entered into a kinship adoption agreement with the birth parent as set forth in Section 8714.7, the kinship adoption agreement, signed by the parties to the agreement, shall be attached to and filed with the petition for adoption under subdivision (b).

(e) The caption of the adoption petition shall contain the name of the relative petitioner. The petition shall state the child's name, sex, and date of birth.

(f) If the child is the subject of a guardianship petition, the adoption petition shall so state and shall include the caption and docket number or have attached a copy of the letters of the guardianship or temporary guardianship. The petitioner shall notify the court of any petition for adoption. The guardianship proceeding shall be consolidated with the adoption proceeding.

(g) The order of adoption shall contain the child's adopted name and, if requested by the adopting relative, or if requested by the child who is 12 years of age or older, the name the child had before adoption.

SEC. 5. Section 8714.7 is added to the Family Code, to read:

8714.7. (a) Nothing in the adoption laws of this state shall be construed to prevent the adopting parent or parents, the birth relatives, including the birth parent or parents, and the child from entering into a written agreement to permit continuing contact between the birth relatives, including the birth parent or parents, and the child if the agreement is found by the court to be in the best interests of the child at the time the adoption petition is granted. The terms of any kinship adoption agreement executed under this section shall be limited to, but need not include, all of the following:

(1) Provisions for visitation between the child and a birth parent or parents and other birth relatives, including siblings.

(2) Provisions for future contact between a birth parent or parents or other birth relatives, including siblings, or both, and the child or an adoptive parent, or both.

(3) Provisions for the sharing of information about the child in the future.



(b) At the time an adoption decree is entered pursuant to a petition filed under Section 8714.5, the court entering the decree may grant postadoption privileges when an agreement for those privileges has been entered into pursuant to subdivision (a).

(c) This section is applicable only to kinship adoption agreements in which the adopting parent is a relative of the child or a relative to the child's half-sibling and the adoption petition is filed under Section 8714.5. For purposes of this section and Section 8714.5, "relative" means an adult who is related to the child or the child's half sibling by blood or affinity, including all relatives whose status is preceded by the words "step," "great," "great-great," or "grand," or the spouse of any of these persons, even if the marriage was terminated by death or dissolution.

(d) The child who is the subject of the adoption petition shall be considered a party to the kinship adoption agreement. The written consent to the terms and conditions of the kinship adoption agreement and any subsequent modifications of the agreement by a child who is 12 years of age and older is a necessary condition to the granting of privileges regarding visitation, contact, or sharing of information about the child, unless the court finds by a preponderance of the evidence that the agreement, as written, is in the best interests of the child. Any child who has been found to come within Section 300 of the Welfare and Institutions Code or who is the subject of a petition for jurisdiction of the juvenile court under Section 300 of the Welfare and Institutions Code shall be represented by an attorney for purposes of consent to the kinship adoption agreement.

(e) A kinship adoption agreement shall contain the following warnings in bold type:

(1) After the adoption petition has been granted by the court, the adoption cannot be set aside due to the failure of an adopting parent, a birth parent, a birth relative, or the child to follow the terms of this agreement or a later change to this agreement.

(2) A disagreement between the parties or litigation brought to enforce or modify the agreement shall not affect the validity of the adoption and shall not serve as a basis for orders affecting the custody of the child.

(3) A court will not act on a petition to change or enforce this agreement unless the petitioner has participated, or attempted to participate, in good faith in mediation or other appropriate dispute resolution proceedings to resolve the dispute.

(f) Upon the granting of the adoption petition and the issuing of the order of adoption of a child who is a dependent of the juvenile court, juvenile court dependency jurisdiction shall be terminated. Enforcement of the kinship adoption agreement shall be under the continuing jurisdiction of the court granting the petition of adoption. The court may not order compliance with the agreement absent a



finding that the party seeking the enforcement participated, or attempted to participate, in good faith in mediation or other appropriate dispute resolution proceedings regarding the conflict, prior to the filing of the enforcement action, and that the enforcement is in the best interests of the child. Documentary evidence or offers of proof may serve as the basis for the court's decision regarding enforcement. No testimony or evidentiary hearing shall be required. The court shall not order further investigation or evaluation by any public or private agency or individual absent a finding by clear and convincing evidence that the best interests of the child may be protected or advanced only by such inquiry and that the inquiry will not disturb the stability of the child's home to the detriment of the child.

(g) The court may not award monetary damages as a result of the filing of the civil action pursuant to subdivision (f) of this section.

(h) A kinship adoption agreement may be modified or terminated only if either of the following occurs:

(1) All parties, including the child if the child is 12 years of age or older at the time of the requested termination or modification, have signed a modified kinship adoption agreement and the agreement is filed with the court that granted the petition of adoption.

(2) The court finds all of the following:

(A) The termination or modification is necessary to serve the best interests of the child.

(B) There has been a substantial change of circumstances since the original agreement was executed and approved by the court.

(C) The party seeking the termination or modification has participated, or attempted to participate, in good faith in mediation or other appropriate dispute resolution proceedings prior to seeking court approval of the proposed termination or modification.

Documentary evidence or offers of proof may serve as the basis for the court's decision. No testimony or evidentiary hearing shall be required. The court shall not order further investigation or evaluation by any public or private agency or individual absent a finding by clear and convincing evidence that the best interests of the child may be protected or advanced only by such inquiry and that the inquiry will not disturb the stability of the child's home to the detriment of the child.

(i) All costs and fees of mediation or other appropriate dispute resolution proceedings shall be borne by each party, excluding the child. All costs and fees of litigation shall be borne by the party filing the action to modify or enforce the agreement when no party has been found by the court as failing to comply with an existing kinship adoption agreement. Otherwise, a party, other than the child, found by the court as failing to comply without good cause with an existing agreement shall bear all the costs and fees of litigation.



(j) By July 1, 1998, the Judicial Council shall adopt rules of court and forms for motions to enforce, terminate, or modify kinship adoption agreements.

(k) The court shall not set aside a decree of adoption, rescind a relinquishment, or modify an order to terminate parental rights or any other prior court order because of the failure of a birth parent, adoptive parent, birth relative, or the child to comply with any or all of the original terms of, or subsequent modifications to, the kinship adoption agreement.

SEC. 6. Section 8715 of the Family Code is amended to read:

8715. The department or licensed adoption agency, whichever is a party to or joins in the petition, shall submit a full report of the facts of the case to the court. Where a petition for adoption by a relative has been filed with a kinship adoption agreement pursuant to Section 8714.7, the report shall address whether the kinship adoption agreement is in the best interests of the child who is the subject of the petition. The department may also submit a report in those cases in which a licensed adoption agency is a party or joins in the adoption petition.

SEC. 7. Section 1502 of the Health and Safety Code is amended to read:

1502. As used in this chapter:

(a) “Community care facility” means any facility, place, or building that is maintained and operated to provide nonmedical residential care, day treatment, adult day care, or foster family agency services for children, adults, or children and adults, including, but not limited to, the physically handicapped, mentally impaired, incompetent persons, and abused or neglected children, and includes the following:

(1) “Residential facility” means any family home, group care facility, or similar facility determined by the director, for 24-hour nonmedical care of persons in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of the individual.

(2) “Adult day care facility” means any facility that provides nonmedical care to persons 18 years of age or older in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of the individual on less than a 24-hour basis.

(3) “Therapeutic day services facility” means any facility that provides nonmedical care, counseling, educational or vocational support, or social rehabilitation services on less than a 24-hour basis to persons under 18 years of age who would otherwise be placed in foster care or who are returning to families from foster care. Program standards for these facilities shall be developed by the department, pursuant to Section 1530, in consultation with therapeutic day services and foster care providers.

(4) “Foster family agency” means any organization engaged in the recruiting, certifying, and training of, and providing professional support to, foster parents, or in finding homes or other places for placement of children for temporary or permanent care who require that level of care as an alternative to a group home. Private foster family agencies shall be organized and operated on a nonprofit basis.

(5) “Foster family home” means any residential facility providing 24-hour care for six or fewer foster children that is owned, leased, or rented and is the residence of the foster parent or parents, including their family, in whose care the foster children have been placed. The placement may be by a public or private child placement agency or by a court order, or by voluntary placement by a parent, parents, or guardian. It also means a foster family home described in Section 1505.2.

(6) “Small family home” means any residential facility, in the licensee’s family residence, that provides 24-hour care for six or fewer foster children who have mental disorders or developmental or physical disabilities and who require special care and supervision as a result of their disabilities. A small family home may accept children with special health care needs, pursuant to subdivision (a) of Section 17710 of the Welfare and Institutions Code. In addition to placing children with special health care needs, the department may approve placement of children without special health care needs, up to the licensed capacity.

(7) “Social rehabilitation facility” means any residential facility that provides social rehabilitation services for no longer than 18 months in a group setting to adults recovering from mental illness who temporarily need assistance, guidance, or counseling. Program components shall be subject to program standards pursuant to Article 1 (commencing with Section 5670) of Chapter 2.5 of Part 2 of Division 5 of the Welfare and Institutions Code.

(8) “Community treatment facility” means any residential facility that provides mental health treatment services to children in a group setting and that has the capacity to provide secure containment. Program components shall be subject to program standards developed and enforced by the State Department of Mental Health pursuant to Section 4094 of the Welfare and Institutions Code.

Nothing in this section shall be construed to prohibit or discourage placement of persons who have mental or physical disabilities into any category of community care facility that meets the needs of the individual placed, if the placement is consistent with the licensing regulations of the department.

(9) “Full-service adoption agency” means any licensed entity engaged in the business of providing adoption services, that does all of the following:



(A) Assumes care, custody, and control of a child through relinquishment of the child to the agency or involuntary termination of parental rights to the child.

(B) Assesses the birth parents, prospective adoptive parents, or child.

(C) Places children for adoption.

(D) Supervises adoptive placements.

Private full-service adoption agencies shall be organized and operated on a nonprofit basis.

(10) “Noncustodial adoption agency” means any licensed entity engaged in the business of providing adoption services, that does all of the following:

(A) Assesses the prospective adoptive parents.

(B) Cooperatively matches children freed for adoption, who are under the care, custody, and control of a licensed adoption agency, for adoption, with assessed and approved adoptive applicants.

(C) Cooperatively supervises adoptive placements with a full-service adoptive agency, but does not disrupt a placement or remove a child from a placement.

Private noncustodial adoption agencies shall be organized and operated on a nonprofit basis.

(11) “Transitional shelter care facility” means any group care facility that provides for 24-hour nonmedical care of persons in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of the individual. Program components shall be subject to program standards developed by the State Department of Social Services pursuant to Section 1502.3.

(b) “Department” or “state department” means the State Department of Social Services.

(c) “Director” means the Director of Social Services.

SEC. 8. Section 1505 of the Health and Safety Code is amended to read:

1505. This chapter does not apply to any of the following:

(a) Any health facility, as defined by Section 1250.

(b) Any clinic, as defined by Section 1202.

(c) Any juvenile placement facility approved by the California Youth Authority or any juvenile hall operated by a county.

(d) Any place in which a juvenile is judicially placed pursuant to subdivision (a) of Section 727 of the Welfare and Institutions Code.

(e) Any child day care facility, as defined in Section 1596.750.

(f) Any facility conducted by and for the adherents of any well-recognized church or religious denomination for the purpose of providing facilities for the care or treatment of the sick who depend upon prayer or spiritual means for healing in the practice of the religion of the church or denomination.

(g) Any school dormitory or similar facility determined by the department.

(h) Any house, institution, hotel, homeless shelter, or other similar place that supplies board and room only, or room only, or board only, provided that no resident thereof requires any element of care as determined by the director.

(i) Recovery houses or other similar facilities providing group living arrangements for persons recovering from alcoholism or drug addiction where the facility provides no care or supervision.

(j) Any alcoholism or drug abuse recovery or treatment facility as defined by Section 11834.11.

(k) Any arrangement for the receiving and care of persons by a relative or any arrangement for the receiving and care of persons from only one family by a close friend of the parent, guardian, or conservator, if the arrangement is not for financial profit and occurs only occasionally and irregularly, as defined by regulations of the state department. For purposes of this chapter, arrangements for the receiving and care of persons by a relative shall include relatives of the child or relatives of the child's half sibling, for the purpose of keeping sibling groups together.

(l) Any supported living arrangement for individuals with developmental disabilities as defined in Section 4689 of the Welfare and Institutions Code.

(m) (1) Any family home agency or family home, as defined in Section 4689.1 of the Welfare and Institutions Code, that is vendored by the State Department of Developmental Services and that does either of the following:

(A) As a family home approved by a family home agency, provides 24-hour care for one or two adults with developmental disabilities in the residence of the family home provider or providers and the family home provider or providers' family, and the provider is not licensed by the State Department of Social Services or the State Department of Health Services or certified by a licensee of the State Department of Social Services or the State Department of Health Services.

(B) As a family home agency, engages in recruiting, approving, and providing support to family homes.

(2) No part of this subdivision shall be construed as establishing by implication either a family home agency or family home licensing category.

(n) Any facility in which only Indian children who are eligible under the federal Indian Child Welfare Act, Chapter 21 (commencing with Section 1901) of Title 25 of the United States Code are placed and that is one of the following:

(1) An extended family member of the Indian child, as defined in Section 1903 of Title 25 of the United States Code.



(2) A foster home that is licensed, approved, or specified by the Indian child's tribe pursuant to Section 1915 of Title 25 of the United States Code.

(o) Any similar facility determined by the director.

SEC. 9. Section 1505.2 is added to the Health and Safety Code, to read:

1505.2. A licensing agency may authorize a foster family home to provide 24-hour care for up to eight foster children, for the purpose of placing siblings or half siblings together in foster care. This authorization may be granted only if all of the following conditions are met:

(A) The foster family home is not a specialized foster care home as defined in subdivision (i) of Section 17710 of the Welfare and Institutions Code.

(B) The home is sufficient in size to accommodate the needs of all children in the home.

(C) For each child to be placed, the child's placement social worker has determined that the child's needs will be met and has documented that determination.

The licensing agency may authorize a foster family home to provide 24-hour care for more than eight children only if the foster family home specializes in the care of sibling groups, that placement is solely for the purpose of placing together one sibling group that exceeds eight children, and all of the above listed conditions are met.

SEC. 10. Section 309 of the Welfare and Institutions Code is amended to read:

309. (a) Upon delivery to the probation officer of a minor who has been taken into temporary custody under this article, the probation officer shall immediately investigate the circumstances of the minor and the facts surrounding the minor's being taken into custody and attempt to maintain the minor with the minor's family through the provision of services. The probation officer shall immediately release the minor to the custody of the minor's parent, guardian, or responsible relative unless one or more of the following conditions exist:

(1) The minor has no parent, guardian, or responsible relative; or the minor's parent, guardian, or responsible relative is not willing to provide care for the minor.

(2) Continued detention of the minor is a matter of immediate and urgent necessity for the protection of the minor and there are no reasonable means by which the minor can be protected in his or her home or the home of a responsible relative.

(3) There is substantial evidence that a parent, guardian, or custodian of the minor is likely to flee the jurisdiction of the court.

(4) The minor has left a placement in which he or she was placed by the juvenile court.



(b) In any case in which there is reasonable cause for believing that a minor who is under the care of a physician or surgeon or a hospital, clinic, or other medical facility and cannot be immediately moved is a person described in Section 300, the minor shall be deemed to have been taken into temporary custody and delivered to the probation officer for the purposes of this chapter while the minor is at the office of the physician or surgeon or the medical facility.

(c) If the minor is not released to his or her parent or guardian, the minor shall be deemed detained for purposes of this chapter.

(d) If an able and willing relative, as defined in Section 319, is available and requests temporary placement of the child pending the detention hearing, the social worker shall initiate an emergency assessment of the relative's suitability, which shall include an in-home visit to assess the safety of the home and the ability of the relative to care for the child on a temporary basis, and a consideration of the results of a criminal records check and allegations of prior child abuse or neglect concerning the relative and other adults in the home. The results of the assessment shall be provided to the court in the social worker's report as required by Section 319.

SEC. 11. Section 316.2 is added to the Welfare and Institutions Code, to read:

316.2. (a) At the detention hearing, or as soon thereafter as practicable, the court shall inquire of the mother and any other appropriate person as to the identity and address of all presumed or alleged fathers. The presence at the hearing of a man claiming to be the father shall not relieve the court of its duty of inquiry. The inquiry may include all of the following:

- (1) Whether a judgment of paternity already exists.
- (2) Whether the mother was married or believed she was married at the time of conception of the child or at any time thereafter.
- (3) Whether the mother was cohabiting with a man at the time of conception or birth of the child.
- (4) Whether the mother has received support payments or promises of support with respect to the child or in connection with her pregnancy.
- (5) Whether any man has formally or informally acknowledged or declared his possible paternity of the child.
- (6) Whether paternity tests have been administered and the results, if any.

(b) If, after the court inquiry, one or more men are identified as an alleged father, each alleged father shall be provided notice at his last and usual place of abode by certified mail return receipt requested alleging that he is or could be the father of the child. The notice shall state that the child is the subject of proceedings under Section 300 and that the proceedings could result in the termination of parental rights and adoption of the child. Judicial Council form Paternity-Waiver of Rights (JV-505) shall be included with the



notice. Nothing in this section shall preclude a court from terminating a father's parental rights even if he appears at the hearing and files an action under Section 7630 or 7631 of the Family Code.

(c) The court may determine that the failure of an alleged father to return the certified mail receipt is not good cause to continue a hearing pursuant to Section 355, 358, 360, 366.21, or 366.22.

(d) If a man appears in the dependency action and files an action under Section 7630 or 7631 of the Family Code, the court shall determine if he is the father.

(e) After a petition has been filed to declare a child a dependent of the court, and until the time that the petition is dismissed, dependency is terminated, or parental rights are terminated pursuant to Section 366.26 or proceedings are commenced under Part 4 (commencing with Section 7800) of Division 12 of the Family Code, the juvenile court which has jurisdiction of the dependency action shall have exclusive jurisdiction to hear an action filed under Section 7630 or 7631 of the Family Code.

SEC. 12. Section 319 of the Welfare and Institutions Code is amended to read:

319. At the initial petition hearing the court shall examine the minor's parents, guardians, or other persons having relevant knowledge and hear the relevant evidence as the minor, the minor's parents or guardians, the petitioner, or their counsel desires to present. The court may examine the minor, as provided in Section 350.

The probation officer shall report to the court on the reasons why the minor has been removed from the parent's custody; the need, if any, for continued detention; on the available services and the referral methods to those services which could facilitate the return of the minor to the custody of the minor's parents or guardians; and whether there are any relatives who are able and willing to take temporary custody of the minor. The court shall order the release of the minor from custody unless a prima facie showing has been made that the minor comes within Section 300 and any of the following circumstances exist:

(a) There is a substantial danger to the physical health of the minor or the minor is suffering severe emotional damage, and there are no reasonable means by which the minor's physical or emotional health may be protected without removing the minor from the parents' or guardians' physical custody.

(b) There is substantial evidence that a parent, guardian, or custodian of the minor is likely to flee the jurisdiction of the court.

(c) The minor has left a placement in which he or she was placed by the juvenile court.



(d) The minor indicates an unwillingness to return home, if the minor has been physically or sexually abused by a person residing in the home.

The court shall also make a determination on the record as to whether reasonable efforts were made to prevent or eliminate the need for removal of the minor from his or her home, pursuant to subdivision (b) of Section 306, and whether there are available services which would prevent the need for further detention. Services to be considered for purposes of making this determination are case management, counseling, emergency shelter care, emergency in-home caretakers, out-of-home respite care, teaching and demonstrating homemakers, parenting training, transportation, and any other child welfare services authorized by the State Department of Social Services pursuant to Chapter 5 (commencing with Section 16500) of Part 4 of Division 9. The court shall also review whether the social worker has considered whether a referral to public assistance services pursuant to Chapter 2 (commencing with Section 11200) of Part 3, Chapter 7 (commencing with Section 14000) of Part 3, Chapter 1 (commencing with Section 17000) of Part 5, and Chapter 10 (commencing with Section 18900) of Part 6, of Division 9 would have eliminated the need to take temporary custody of the minor or would prevent the need for further detention. If the minor can be returned to the custody of his or her parent or guardian through the provision of those services, the court shall place the minor with his or her parent or guardian and order that the services shall be provided. If the minor cannot be returned to the custody of his or her parent or guardian, the court shall determine if there is a relative who is able and willing to care for the child. Where the first contact with the family has occurred during an emergency situation in which the child could not safely remain at home, even with reasonable services being provided, the court shall make a finding that the lack of preplacement preventive efforts were reasonable. Whenever a court orders a minor detained, the court shall state the facts on which the decision is based, shall specify why the initial removal was necessary, and shall order services to be provided as soon as possible to reunify the minor and his or her family if appropriate.

When the minor is not released from custody the court may order that the minor shall be placed in the suitable home of a relative or in an emergency shelter or other suitable licensed place or a place exempt from licensure designated by the juvenile court or in an appropriate certified family home whose license is pending and all the prelicense requirements for such a placement have been met as set forth in subdivision (e) of Section 361.2 for a period not to exceed 15 judicial days.

As used in this section, “relative” means an adult who is related to the child or child’s half sibling by blood or affinity, including all



relatives whose status is preceded by the words “step,” “great,” “great-great,” or “grand,” or the spouse of any of these persons, even if the marriage was terminated by death or dissolution. However, only the following relatives shall be given preferential consideration for placement of the child: an adult who is a grandparent, aunt, uncle, or a sibling of the child.

The court shall consider the recommendations of the social worker based on the emergency assessment of the relative’s suitability, including the results of a criminal records check and prior child abuse allegations, if any, prior to ordering that the child be placed with a relative. The social worker shall initiate the assessment pursuant to Section 361.3 of any relative to be considered for continuing placement.

SEC. 13. Section 355 of the Welfare and Institutions Code is amended to read:

355. (a) At the jurisdictional hearing, the court shall first consider only the question whether the minor is a person described by Section 300. Any legally admissible evidence that is relevant to the circumstances or acts that are alleged to bring the minor within the jurisdiction of the juvenile court is admissible and may be received in evidence. Proof by a preponderance of evidence must be adduced to support a finding that the minor is a person described by Section 300. Objections that could have been made to evidence introduced shall be deemed to have been made by any parent or guardian who is present at the hearing and unrepresented by counsel, unless the court finds that the parent or guardian has made a knowing and intelligent waiver of the right to counsel. Objections that could have been made to evidence introduced shall be deemed to have been made by any unrepresented child.

(b) A social study prepared by the petitioning agency, and hearsay evidence contained in it, is admissible and constitutes competent evidence upon which a finding of jurisdiction pursuant to Section 300 may be based, to the extent allowed by subdivisions (c) and (d).

(1) For the purposes of this section, “social study” means any written report furnished to the juvenile court and to all parties or their counsel by the county probation or welfare department in any matter involving the custody, status, or welfare of a minor in a dependency proceeding pursuant to Article 6 (commencing with Section 300) to 12 (commencing with Section 385), inclusive of Chapter 2 of Division 2.

(2) The preparer of the social study shall be made available for cross-examination upon a timely request by any party. The court may deem the preparer available for cross-examination if it determines that the preparer is on telephone standby and can be present in court within a reasonable time of the request.

(3) The court may grant a reasonable continuance not to exceed 10 days upon request by any party if the social study is not provided

to the parties or their counsel within a reasonable time before the hearing.

(c) (1) If any party to the jurisdictional hearing raises a timely objection to the admission of specific hearsay evidence contained in a social study, the specific hearsay evidence shall not be sufficient by itself to support a jurisdictional finding or any ultimate fact upon which a jurisdictional finding is based, unless the petitioner establishes one or more of the following exceptions:

(A) The hearsay evidence would be admissible in any civil or criminal proceeding under any statutory or decisional exception to the prohibition against hearsay.

(B) The hearsay declarant is a minor under the age of 12 years who is the subject of the jurisdictional hearing. However, the hearsay statement of a minor under the age of 12 years shall not be admissible if the objecting party establishes that the statement is unreliable because it was the product of fraud, deceit, or undue influence.

(C) The hearsay declarant is a peace officer as defined by Chapter 4.5 (commencing with Section 830) of Part 2 of Title 3 of the Penal Code, a health practitioner as defined by Section 11165.8 of the Penal Code, a social worker licensed pursuant to Chapter 14 (commencing with Section 4996) of Division 2 of the Business and Professions Code, or a teacher who holds a credential pursuant to Chapter 2 (commencing with Section 44200) of Part 24 of Division 3 of Title 2 of the Education Code. For the purpose of this subdivision, evidence in a declaration is admissible only to the extent that it would otherwise be admissible under this section or if the declarant were present and testifying in court.

(D) The hearsay declarant is available for cross-examination. For purposes of this section, the court may deem a witness available for cross-examination if it determines that the witness is on telephone standby and can be present in court within a reasonable time of a request to examine the witness.

(2) For purposes of this subdivision, an objection is timely if it identifies with reasonable specificity the disputed hearsay evidence and it gives the petitioner a reasonable period of time to meet the objection prior to a contested hearing.

(d) This section shall not be construed to limit the right of any party to the jurisdictional hearing to subpoena a witness whose statement is contained in the social study or to introduce admissible evidence relevant to the weight of the hearsay evidence or the credibility of the hearsay declarant.

SEC. 14. Section 358.1 of the Welfare and Institutions Code is amended to read:

358.1. Each social study or evaluation made by a probation officer or child advocate appointed by the court, required to be received in evidence pursuant to Section 358, shall include, but not be limited to, a factual discussion of each of the following subjects:

(a) Whether the county welfare department or probation officer has considered child protective services, as defined in Chapter 5 (commencing with Section 16500) of Part 4 of Division 9, as a possible solution to the problems at hand, and has offered these services to qualified parents if appropriate under the circumstances.

(b) What plan, if any, for return of the child to his or her parents and for achieving legal permanence for the child if efforts to reunify fail, is recommended to the court by the county welfare department or probation officer.

(c) Whether the best interests of the child will be served by granting reasonable visitation rights with the child to his or her grandparents, in order to maintain and strengthen the child's family relationships.

(d) Whether the subject child appears to be a person who is eligible to be considered for further court action to free the child from parental custody and control.

(e) Whether the parent has been advised of his or her option to participate in adoption planning and to voluntarily relinquish the child for adoption if an adoption agency is willing to accept the relinquishment.

(f) The appropriateness of any relative placement pursuant to Section 361.3; however, this consideration shall not be cause for continuance of the dispositional hearing.

SEC. 15. Section 361 of the Welfare and Institutions Code is amended to read:

361. (a) In all cases in which a minor is adjudged a dependent child of the court on the ground that the minor is a person described by Section 300, the court may limit the control to be exercised over the dependent child by any parent or guardian and shall by its order clearly and specifically set forth all those limitations. Any limitation on the right of the parent or guardian to make educational decisions for the child shall be specifically addressed in the court order. The limitations shall not exceed those necessary to protect the child.

(b) Nothing in subdivision (a) shall be construed to limit the ability of a parent to voluntarily relinquish his or her child to the State Department of Social Services or to a licensed county adoption agency at any time while the child is a dependent child of the juvenile court if the department or agency is willing to accept the relinquishment.

(c) No dependent child shall be taken from the physical custody of his or her parents or guardian or guardians with whom the child resides at the time the petition was initiated unless the juvenile court finds clear and convincing evidence of any of the following:

(1) There is a substantial danger to the physical health, safety, protection, or physical or emotional well-being of the minor or would be if the minor were returned home, and there are no reasonable means by which the minor's physical health can be protected without



removing the minor from the minor's parents' or guardians' physical custody. The fact that a minor has been adjudicated a dependent child of the court pursuant to subdivision (e) of Section 300 shall constitute prima facie evidence that the minor cannot be safely left in the custody of the parent or guardian with whom the minor resided at the time of injury. The court shall consider, as a reasonable means to protect the minor, the option of removing an offending parent or guardian from the home. The court shall also consider, as a reasonable means to protect the minor, allowing a nonoffending parent or guardian to retain custody as long as that parent or guardian presents a plan acceptable to the court demonstrating that he or she will be able to protect the child from future harm.

(2) The parent or guardian of the minor is unwilling to have physical custody of the minor, and the parent or guardian has been notified that if the minor remains out of their physical custody for the period specified in Section 366.25 or 366.26, the minor may be declared permanently free from their custody and control.

(3) The minor is suffering severe emotional damage, as indicated by extreme anxiety, depression, withdrawal, or untoward aggressive behavior toward self or others, and there are no reasonable means by which the minor's emotional health may be protected without removing the minor from the physical custody of his or her parent or guardian.

(4) The minor or a sibling of the minor has been sexually abused, or is deemed to be at substantial risk of being sexually abused, by a parent, guardian, or member of his or her household, or other person known to his or her parent, and there are no reasonable means by which the minor can be protected from further sexual abuse or a substantial risk of sexual abuse without removing the minor from his or her parent or guardian, or the minor does not wish to return to his or her parent or guardian.

(5) The minor has been left without any provision for his or her support, or a parent who has been incarcerated or institutionalized cannot arrange for the care of the minor, or a relative or other adult custodian with whom the child has been left by the parent is unwilling or unable to provide care or support for the child and the whereabouts of the parent is unknown and reasonable efforts to locate him or her have been unsuccessful.

(d) The court shall make a determination as to whether reasonable efforts were made to prevent or to eliminate the need for removal of the minor from his or her home or, if the minor is removed for one of the reasons stated in paragraph (5) of subdivision (c), whether it was reasonable under the circumstances not to make any of those efforts. The court shall state the facts on which the decision to remove the minor is based.

(e) The court shall make all of the findings required by subdivision (a) of Section 366 in either of the following circumstances:

(1) The minor has been taken from the custody of his or her parent or guardian and has been living in an out-of-home placement pursuant to Section 319.

(2) The minor has been living in a voluntary out-of-home placement pursuant to Section 16507.4.

SEC. 16. Section 361.3 of the Welfare and Institutions Code is amended to read:

361.3. (a) In any case in which a child is removed from the physical custody of his or her parents pursuant to Section 361, preferential consideration shall be given to a request by a relative of the child for placement of the child with the relative. In determining whether placement with a relative is appropriate, the county social worker and court shall consider, but shall not be limited to, consideration of all the following factors:

(1) The best interests of the child, including special physical, psychological, educational, medical, or emotional needs.

(2) The wishes of the parent, the relative, and child, if appropriate.

(3) The provisions of Part 6 (commencing with Section 7950) of Division 12 of the Family Code regarding relative placement.

(4) Placement of siblings and half-siblings in the same home, if such a placement is found to be in the best interests of each of the children as provided in Section 16002.

(5) The good moral character of the relative and any other adult living in the home, including whether any individual residing in the home has a prior history of violent criminal acts or has been responsible for acts of child abuse or neglect. However, this paragraph shall not be construed to provide independent grounds for access to the child abuse central index.

(6) The nature and duration of the relationship between the child and the relative, and the relative's desire to care for the child.

(7) The ability of the relative to do the following:

(A) Provide a safe, secure, and stable environment for the child.

(B) Exercise proper and effective care and control of the child.

(C) Provide a home and the necessities of life for the child.

(D) Protect the child from his or her parents.

(E) Facilitate court-ordered reunification efforts with the parents.

(F) Facilitate visitation with the child's other relatives.

(G) Facilitate implementation of all elements of the case plan.

(H) Provide legal permanence for the child if reunification fails.

However, any finding made with respect to the factor considered pursuant to this subparagraph and pursuant to subparagraph (G) shall not be the sole basis for precluding preferential placement with a relative.

(I) Arrange for appropriate and safe child care, as necessary.

(8) The safety of the relative's home. For purposes of this paragraph, the county social worker shall conduct a direct assessment of the safety of the relative's home. The information obtained as a result of this assessment shall be documented by the county social worker in the child's case record.

In this regard, the Legislature declares that a physical disability, such as blindness or deafness, is no bar to the raising of children, and a county social worker's determination as to the ability of a disabled relative to exercise care and control should center upon whether the relative's disability prevents him or her from exercising care and control. The court shall order the parent to disclose to the county social worker the names, residences, and any other known identifying information of any maternal or paternal relatives of the child. This inquiry shall not be construed, however, to guarantee that the minor will be placed with any person so identified. The county social worker shall initially contact the relatives given preferential consideration for placement to determine if they desire the child to be placed with them. Those desiring placement shall be assessed according to the factors enumerated in this subdivision. The county social worker shall document these efforts in the social study prepared pursuant to Section 358.1. The court shall authorize the county social worker, while assessing these relatives for the possibility of placement, to disclose to the relative, as appropriate, the fact that the child is in custody, the alleged reasons for the custody, and the projected likely date for the child's return home or placement for adoption or legal guardianship. However, this investigation shall not be construed as good cause for continuance of the dispositional hearing conducted pursuant to Section 358.

(b) In any case in which more than one appropriate relative requests preferential consideration pursuant to this section, each relative shall be considered under the factors enumerated in subdivision (a).

(c) For purposes of this section:

(1) "Preferential consideration" means that the relative seeking placement shall be the first placement to be considered and investigated.

(2) "Relative" means an adult who is related to the child or the child's half sibling by blood or affinity, including all relatives whose status is preceded by the words "step," "great," "great-great" or "grand" or the spouse of any such person even if the marriage has been terminated by death or dissolution. However, only the following relatives shall be given preferential consideration for the placement of the child: an adult who is a grandparent, aunt, uncle, or sibling.

(d) Subsequent to the hearing conducted pursuant to Section 358, whenever a new placement of the minor must be made, consideration for placement shall again be given as described in this

section to relatives who have not been found to be unsuitable and who will fulfill the minor's reunification or permanent plan requirements. In addition to the factors described in subdivision (a), the county social worker shall consider whether the relative has established and maintained a relationship with the minor.

(e) If the court does not place the child with a relative who has been considered for placement pursuant to this section, the court shall state for the record the reasons placement with that relative was denied.

SEC. 17. Section 361.5 of the Welfare and Institutions Code, as amended by Section 2.5 of Chapter 1083 of the Statutes of 1996, is amended to read:

361.5. (a) Except as provided in subdivision (b) of this section or when the parent has voluntarily relinquished the minor and the relinquishment has been filed with the State Department of Social Services or, upon the establishment of an order of guardianship pursuant to Section 360, whenever a minor is removed from a parent's or guardian's custody, the juvenile court shall order the probation officer to provide child welfare services to the minor and the minor's mother and statutorily presumed father, or guardians. Upon a finding and declaration of paternity by the juvenile court or proof of a prior declaration of paternity by any court of competent jurisdiction, the juvenile court may order services for the minor and the biological father, if the court determines that the services will benefit the child. Child welfare services, when provided, shall be provided as follows:

(1) For a minor who, on the date of initial removal from the physical custody of his or her parent or guardian, was three years of age or older, court-ordered services shall not exceed a period of 12 months.

(2) For a minor who, on the date of initial removal from the physical custody of his or her parent or guardian, was under the age of three years, court-ordered services shall not exceed a period of six months.

However, court-ordered services may be extended up to a maximum time period not to exceed 18 months if it can be shown that the objectives of the service plan can be achieved within the extended time period. The court shall extend the time period only if it finds that there is a substantial probability that the minor will be returned to the physical custody of his or her parent or guardian within the extended time period or that reasonable services have not been provided to the parent or guardian. If the court extends the time period, the court shall specify the factual basis for its conclusion that there is a substantial probability that the minor will be returned to the physical custody of his or her parent or guardian within the extended time period. The court also shall make findings pursuant to subdivision (a) of Section 366 and subdivision (e) of Section 358.1.



When counseling or other treatment services are ordered, the parent or guardian shall be ordered to participate in those services, unless the parent's or guardian's participation is deemed by the court to be inappropriate or potentially detrimental to the minor. Physical custody of the minor by the parents or guardians during the 18-month period shall not serve to interrupt the running of the period. If at the end of the 18-month period, a minor cannot be safely returned to the care and custody of a parent or guardian without court supervision, but the minor clearly desires contact with the parent or guardian, the court shall take the child's desire into account in devising a permanency plan.

In cases where the minor was under the age of three years on the date of the initial removal from the physical custody of his or her parent or guardian, the court shall inform the parent or guardian that the failure of the parent or guardian to participate regularly in any court-ordered treatment programs or to cooperate or avail himself or herself of services provided as part of the child welfare services case plan may result in a termination of efforts to reunify the family after six months.

Except in cases where, pursuant to subdivision (b), the court does not order reunification services, the court shall inform the parent or parents of Section 366.25 or 366.26 and shall specify that the parent's or parents' parental rights may be terminated.

(b) Reunification services need not be provided to a parent or guardian described in this subdivision when the court finds, by clear and convincing evidence, any of the following:

(1) That the whereabouts of the parent or guardian is unknown. A finding pursuant to this paragraph shall be supported by an affidavit or by proof that a reasonably diligent search has failed to locate the parent or guardian. The posting or publication of notices is not required in that search.

(2) That the parent or guardian is suffering from a mental disability that is described in Chapter 2 (commencing with Section 7820) of Part 4 of Division 12 of the Family Code and that renders him or her incapable of utilizing those services.

(3) That the minor or a sibling of the minor had been previously adjudicated a dependent pursuant to any subdivision of Section 300 as a result of physical or sexual abuse, that following that adjudication the minor had been removed from the custody of his or her parent or guardian pursuant to Section 361, that the minor has been returned to the custody of the parent or guardian from whom the minor had been taken originally, and that the minor is being removed pursuant to Section 361, due to additional physical or sexual abuse.

(4) That the parent or guardian of the minor has caused the death of another minor through abuse or neglect.



(5) That the minor was brought within the jurisdiction of the court under subdivision (e) of Section 300 because of the conduct of that parent or guardian.

(6) That the minor has been adjudicated a dependent pursuant to any subdivision of Section 300 as a result of severe sexual abuse or the infliction of severe physical harm to the minor, a sibling, or a half-sibling by a parent or guardian, as defined in this subdivision, and the court makes a factual finding that it would not benefit the minor to pursue reunification services with the offending parent or guardian.

A finding of severe sexual abuse, for the purposes of this subdivision, may be based on, but is not limited to, sexual intercourse or stimulation involving genital-genital, oral-genital, anal-genital, or oral-anal contact, whether between the parent or guardian and the minor, or a sibling or half-sibling of the minor, or between the minor or a sibling or half-sibling of the minor, and another person or animal with the actual or implied consent of the parent or guardian, or the penetration or manipulation of the minor's, sibling's, or half-sibling's genital organs or rectum by any animate or inanimate object, for the sexual gratification of the parent or guardian, or for the sexual gratification of another person with the actual or implied consent of the parent or guardian.

A finding of the infliction of severe physical harm, for the purposes of this subdivision, may be based on, but is not limited to, deliberate and serious injury inflicted to or on a minor's body, or the body of a sibling or half-sibling of the minor, by an act or omission of the parent or guardian, or of another individual or animal with the consent of the parent or guardian; deliberate and torturous confinement of the minor, sibling, or half-sibling, in a closed space; or any other torturous act or omission which would be reasonably understood to cause serious emotional damage.

(7) That the parent is not receiving reunification services for a sibling or a half-sibling of the minor pursuant to paragraph (3), (5), or (6).

(8) That the minor was conceived by means of the commission of an offense listed in Section 288 or 288.5 of the Penal Code, or by an act committed outside of this state which if committed in this state would constitute such an offense. This paragraph only applies to the parent who committed the offense or act.

(9) That the minor was brought within the jurisdiction of the court under subdivision (g) of Section 300, that the parent or guardian of the minor willfully abandoned the minor, and the court finds that the abandonment itself constituted a serious danger to the minor. For purposes of this paragraph, a "serious danger" means that without the intervention of another person or agency, the minor would have sustained severe or permanent disability, injury, illness, or death. For purposes of this paragraph, "willful abandonment" shall not be



construed as actions taken in good faith by the parent without the intent of placing the minor in serious danger.

(10) That (A) the court ordered a permanent plan of adoption, guardianship, or long-term foster care for any siblings or half-siblings of the minor because the parent or guardian failed to reunify with the sibling or half-sibling after the sibling or half-sibling had been removed from that parent or guardian pursuant to Section 361 and that parent or guardian is the same parent or guardian described in subdivision (a), or (B) the parental rights of a parent or guardian over any sibling or half-sibling of the minor had been permanently severed, and that, according to the findings of the court, this parent or guardian has not subsequently made a reasonable effort to treat the problems that led to removal of the sibling or half-sibling of that minor from that parent or guardian.

(11) That the parent or guardian has been convicted of a violent felony, as defined in subdivision (c) of Section 667.5 of the Penal Code.

(12) That the parent or guardian of the minor has a history of extensive, abusive, and chronic use of drugs or alcohol and has resisted prior treatment for this problem during a three-year period immediately prior to the filing of the petition which brought that minor to the court's attention, or has failed or refused to comply with a program of drug or alcohol treatment described in the case plan required by Section 358.1 on at least two prior occasions, even though the programs identified were available and accessible.

(13) That the parent or guardian of the minor has advised the court that he or she is not interested in receiving family maintenance or family reunification services or having the minor returned to or placed in his or her custody and does not wish to receive family maintenance or reunification services.

The parent or guardian shall be represented by counsel and shall execute a waiver of services form to be adopted by the Judicial Council. The court shall advise the parent or guardian of any right to services and of the possible consequences of a waiver of services, including the termination of parental rights and placement of the child for adoption. The court shall not accept the waiver of services unless it states on the record its finding that the parent or guardian has knowingly and intelligently waived the right to services.

(c) In deciding whether to order reunification in any case in which this section applies, the court shall hold a dispositional hearing. The probation officer shall prepare a report which discusses whether reunification services shall be provided. When it is alleged, pursuant to paragraph (2) of subdivision (b), that the parent is incapable of utilizing services due to mental disability, the court shall order reunification services unless competent evidence from mental health professionals establishes that, even with the provision of services, the

parent is unlikely to be capable of adequately caring for the child within 12 months.

The court shall not order reunification for a parent or guardian described in paragraph (3), (4), (6), (7), (8), (9), (10), (11), (12), or (13) of subdivision (b) unless the court finds, by clear and convincing evidence, that reunification is in the best interests of the minor.

In addition, the court shall not order reunification in any situation described in paragraph (5) of subdivision (b) unless it finds that, based on competent testimony, those services are likely to prevent reabuse or continued neglect of the minor or that failure to try reunification will be detrimental to the minor because the minor is closely and positively attached to that parent. The probation officer shall investigate the circumstances leading to the removal of the minor and advise the court whether there are circumstances which indicate that reunification is likely to be successful or unsuccessful and whether failure to order reunification is likely to be detrimental to the minor.

The failure of the parent to respond to previous services, the fact that the minor was abused while the parent was under the influence of drugs or alcohol, a past history of violent behavior, or testimony by a competent professional that the parent's behavior is unlikely to be changed by services, are among the factors indicating that reunification services are unlikely to be successful. The fact that a parent or guardian is no longer living with an individual who severely abused the minor may be considered in deciding that reunification services are likely to be successful, provided that the court shall consider any pattern of behavior on the part of the parent that has exposed the minor to repeated abuse.

(d) If reunification services are not ordered pursuant to paragraph (1) of subdivision (b) and the whereabouts of a parent become known within six months of the out-of-home placement of the minor, the court shall order the probation officer to provide family reunification services in accordance with this subdivision. However, the time limits specified in subdivision (a) and Section 366.25 are not tolled by the parent's absence.

(e) (1) If the parent or guardian is incarcerated or institutionalized, the court shall order reasonable services unless the court determines, by clear and convincing evidence, those services would be detrimental to the minor. In determining detriment, the court shall consider the age of the minor, the degree of parent-child bonding, the length of the sentence, the nature of the treatment, the nature of crime or illness, the degree of detriment to the minor if services are not offered and, for minors 10 years of age or older, the minor's attitude toward the implementation of family reunification services, and any other appropriate factors. Reunification services

are subject to the 18-month limitation imposed in subdivision (a). Services may include, but shall not be limited to, all of the following:

(A) Maintaining contact between parent and minor through collect telephone calls.

(B) Transportation services, where appropriate.

(C) Visitation services, where appropriate.

(D) Reasonable services to extended family members or foster parents providing care for the minor if the services are not detrimental to the minor.

An incarcerated parent may be required to attend counseling, parenting classes, or vocational training programs as part of the service plan if these programs are available.

(2) The presiding judge of the juvenile court of each county may convene representatives of the county welfare department, the sheriff's department, and other appropriate entities for the purpose of developing and entering into protocols for ensuring the notification, transportation, and presence of an incarcerated or institutionalized parent at all court hearings involving proceedings affecting the minor pursuant to Section 2625 of the Penal Code.

(3) Notwithstanding any other provision of law, if the incarcerated parent is a woman seeking to participate in the community treatment program operated by the Department of Corrections pursuant to Chapter 4.8 (commencing with Section 1174) of Title 7 of Part 2 of, or Chapter 4 (commencing with Section 3410) of Title 2 of Part 3 of the Penal Code, the court shall determine whether the parent's participation in a program is in the child's best interests and whether it is suitable to meet the needs of the parent and child.

(f) If a court, pursuant to paragraph (2), (3), (4), (5), (6), (7), (8), (9), (10), (11), (12), or (13) of subdivision (b) or paragraph (1) of subdivision (e), does not order reunification services, it shall conduct a hearing pursuant to Section 366.25 or 366.26 within 120 days of the dispositional hearing. However, the court shall not schedule a hearing so long as the other parent is being provided reunification services pursuant to subdivision (a). The court may continue to permit the parent to visit the minor unless it finds that visitation would be detrimental to the minor.

(g) Whenever a court orders that a hearing shall be held pursuant to Section 366.25 or 366.26 it shall direct the agency supervising the minor and the licensed county adoption agency, or the State Department of Social Services when it is acting as an adoption agency in counties which are not served by a county adoption agency, to prepare an assessment regarding the likelihood that the minor will be adopted if parental rights are terminated. The assessment shall include:

(1) Current search efforts for an absent parent or parents.

(2) A review of the amount of and nature of any contact between the minor and his or her parents since the time of placement.

(3) An evaluation of the minor's medical, developmental, scholastic, mental, and emotional status and an analysis of whether any of the minor's characteristics would make it difficult to find a person willing to adopt the minor.

(4) A preliminary assessment of the eligibility and commitment of any identified prospective adoptive parent or guardian, particularly the caretaker, to include a social history including screening for criminal records and prior referrals for child abuse or neglect, the capability to meet the minor's needs, and the understanding of the legal and financial rights and responsibilities of adoption and guardianship.

(5) The relationship of the minor to any identified prospective adoptive parent or guardian, the duration and character of the relationship, the motivation for seeking adoption or guardianship, and a statement from the minor concerning placement and the adoption or guardianship, unless the minor's age or physical, emotional, or other condition precludes his or her meaningful response, and if so, a description of the condition.

(h) In determining whether reunification services will benefit the minor pursuant to paragraph (6) or (7) of subdivision (b), the court shall consider any information it deems relevant, including the following factors:

(1) The specific act or omission comprising the severe sexual abuse or the severe physical harm inflicted on the minor or the minor's sibling or half-sibling.

(2) The circumstances under which the abuse or harm was inflicted on the minor or the minor's sibling or half-sibling.

(3) The severity of the emotional trauma suffered by the minor or the minor's sibling or half-sibling.

(4) Any history of abuse of other children by the offending parent or guardian.

(5) The likelihood that the minor may be safely returned to the care of the offending parent or guardian within 18 months with no continuing supervision.

(6) Whether or not the minor desires to be reunified with the offending parent or guardian.

(i) The court shall read into the record the basis for a finding of severe sexual abuse or the infliction of severe physical harm under paragraph (6) of subdivision (b), and shall also specify the factual findings used to determine that the provision of reunification services to the offending parent or guardian would not benefit the minor.

(j) This section shall remain in effect only until January 1, 1999, and as of that date is repealed, unless a later enacted statute, which is enacted on or before January 1, 1999, deletes or extends that date.

SEC. 18. Section 361.5 of the Welfare and Institutions Code, as added by Section 2.7 of Chapter 1083 of the Statutes of 1996, is amended to read:

361.5. (a) Except as provided in subdivision (b) of this section or when the parent has voluntarily relinquished the minor and the relinquishment has been filed with the State Department of Social Services, or upon the establishment of an order of guardianship pursuant to Section 360, whenever a minor is removed from a parent's or guardian's custody, the juvenile court shall order the probation officer to provide child welfare services to the minor and the minor's mother and statutorily presumed father, or guardians. Upon a finding and declaration of paternity by the juvenile court or proof of a prior declaration of paternity by any court of competent jurisdiction, the juvenile court may order services for the minor and the biological father, if the court determines that the services will benefit the child. Child welfare services, when provided, shall be provided as follows:

(1) For a minor who, on the date of initial removal from the physical custody of his or her parent or guardian, was three years of age or older, court-ordered services shall not exceed a period of 12 months.

(2) For a minor who, on the date of initial removal from the physical custody of his or her parent or guardian, was under the age of three years, court-ordered services shall not exceed a period of six months.

However, court-ordered services may be extended up to a maximum time period not to exceed 18 months if it can be shown that the objectives of the service plan can be achieved within the extended time period. The court shall extend the time period only if it finds that there is a substantial probability that the minor will be returned to the physical custody of his or her parent or guardian within the extended time period or that reasonable services have not been provided to the parent or guardian. If the court extends the time period, the court shall specify the factual basis for its conclusion that there is a substantial probability that the minor will be returned to the physical custody of his or her parent or guardian within the extended time period. The court also shall make findings pursuant to subdivision (a) of Section 366. When counseling or other treatment services are ordered, the parent or guardian shall be ordered to participate in those services, unless the parent's or guardian's participation is deemed by the court to be inappropriate or potentially detrimental to the minor. Physical custody of the minor by the parents or guardians during the 18-month period shall not serve to interrupt the running of the period. If at the end of the 18-month period, a minor cannot be safely returned to the care and custody of a parent or guardian without court supervision, but the minor clearly desires contact with the parent or guardian, the court

shall take the child's desire into account in devising a permanency plan.

In cases where the minor was under the age of three years on the date of the initial removal from the physical custody of his or her parent or guardian, the court shall inform the parent or guardian that the failure of the parent or guardian to participate regularly in any court-ordered treatment programs or to cooperate or avail himself or herself of services provided as part of the child welfare services case plan may result in a termination of efforts to reunify the family after six months.

Except in cases where, pursuant to subdivision (b), the court does not order reunification services, the court shall inform the parent or parents of Section 366.25 or 366.26 and shall specify that the parent's or parents' parental rights may be terminated.

(b) Reunification services need not be provided to a parent or guardian described in this subdivision when the court finds, by clear and convincing evidence, any of the following:

(1) That the whereabouts of the parent or guardian is unknown. A finding pursuant to this paragraph shall be supported by an affidavit or by proof that a reasonably diligent search has failed to locate the parent or guardian. The posting or publication of notices is not required in that search.

(2) That the parent or guardian is suffering from a mental disability that is described in Chapter 2 (commencing with Section 7820) of Part 4 of Division 12 of the Family Code and that renders him or her incapable of utilizing those services.

(3) That the minor or a sibling of the minor has been previously adjudicated a dependent pursuant to any subdivision of Section 300 as a result of physical or sexual abuse, that following that adjudication the minor had been removed from the custody of his or her parent or guardian pursuant to Section 361, that the minor has been returned to the custody of the parent or guardian from whom the minor had been taken originally, and that the minor is being removed pursuant to Section 361, due to additional physical or sexual abuse.

(4) That the parent or guardian of the minor has caused the death of another minor through abuse or neglect.

(5) That the minor was brought within the jurisdiction of the court under subdivision (c) of Section 300 because of the conduct of that parent or guardian.

(6) That the minor has been adjudicated a dependent pursuant to any subdivision of Section 300 as a result of severe sexual abuse or the infliction of severe physical harm to the minor, a sibling, or a half-sibling by a parent or guardian, as defined in this subdivision, and the court makes a factual finding that it would not benefit the minor to pursue reunification services with the offending parent or guardian.



A finding of severe sexual abuse, for the purposes of this subdivision, may be based on, but is not limited to, sexual intercourse, or stimulation involving genital-genital, oral-genital, anal-genital, or oral-anal contact, whether between the parent or guardian and the minor or a sibling or half-sibling of the minor, or between the minor or a sibling or half-sibling of the minor and another person or animal with the actual or implied consent of the parent or guardian; or the penetration or manipulation of the minor's, sibling's, or half-sibling's genital organs or rectum by any animate or inanimate object for the sexual gratification of the parent or guardian, or for the sexual gratification of another person with the actual or implied consent of the parent or guardian.

A finding of the infliction of severe physical harm, for the purposes of this subdivision, may be based on, but is not limited to, deliberate and serious injury inflicted to or on a minor's body or the body of a sibling or half-sibling of the minor by an act or omission of the parent or guardian, or of another individual or animal with the consent of the parent or guardian; deliberate and torturous confinement of the minor, sibling, or half-sibling in a closed space; or any other torturous act or omission which would be reasonably understood to cause serious emotional damage.

(7) That the parent is not receiving reunification services for a sibling or a half-sibling of the minor pursuant to paragraph (3), (5), or (6).

(8) That the minor was conceived by means of the commission of an offense listed in Section 288 or 288.5 of the Penal Code, or by an act committed outside of this state which if committed in this state would constitute such an offense. This paragraph only applies to the parent who committed the offense or act.

(9) That the minor has been found to be a child described in subdivision (g) of Section 300, that the parent or guardian of the minor willfully abandoned the minor, and the court finds that the abandonment itself constituted a serious danger to the child. For the purposes of this paragraph, "serious danger" means that without the intervention of another person or agency, the minor would have sustained severe or permanent disability, injury, illness, or death. For purposes of this paragraph, "willful abandonment" shall not be construed as actions taken in good faith by the parent without the intent of placing the minor in serious danger.

(10) That (A) the court ordered a permanent plan of adoption, guardianship, or long-term foster care for any siblings or half-siblings of the minor because the parent or guardian failed to reunify with the sibling or half-sibling after the sibling or half-sibling had been removed from that parent or guardian pursuant to Section 361 and that parent or guardian is the same parent or guardian described in subdivision (a), or (B) the parental rights of a parent or guardian over any sibling or half-sibling of the minor had been permanently



severed, and that, according to the findings of the court, this parent or guardian has not subsequently made a reasonable effort to treat the problems that led to removal of the sibling or half-sibling of that minor from that parent or guardian.

(11) That the parent or guardian has been convicted of a violent felony, as defined in subdivision (c) of Section 667.5 of the Penal Code.

(12) That the parent or guardian of the minor has a history of extensive, abusive, and chronic use of drugs or alcohol and has resisted prior treatment for this problem during a three-year period immediately prior to the filing of the petition which brought that minor to the court's attention, or has failed or refused to comply with a program of drug or alcohol treatment described in the case plan required by Section 358.1 on at least two prior occasions, even though the programs identified were available and accessible.

(13) That the parent or guardian of the minor has advised the court that he or she is not interested in receiving family maintenance or family reunification services or having the minor returned to or placed in his or her custody and does not wish to receive family maintenance or reunification services.

The parent or guardian shall be represented by counsel and shall execute a waiver of services form to be adopted by the Judicial Council. The court shall advise the parent or guardian of any right to services and of the possible consequences of a waiver of services, including the termination of parental rights and placement of the child for adoption. The court shall not accept the waiver of services unless it states on the record its finding that the parent or guardian has knowingly and intelligently waived the right to services.

(c) In deciding whether to order reunification in any case in which this section applies, the court shall hold a dispositional hearing. The probation officer shall prepare a report which discusses whether reunification services shall be provided. When it is alleged, pursuant to paragraph (2) of subdivision (b), that the parent is incapable of utilizing services due to mental disability, the court shall order reunification services unless competent evidence from mental health professionals establishes that, even with the provision of services, the parent is unlikely to be capable of adequately caring for the minor within 12 months.

The court shall not order reunification for a parent or guardian described in paragraph (3), (4), (6), (7), (8), (9), (10), (11), (12), or (13) of subdivision (b) unless the court finds, by clear and convincing evidence, that reunification is in the best interest of the minor.

In addition, the court shall not order reunification in any situation described in paragraph (5) of subdivision (b) unless it finds that, based on competent testimony, those services are likely to prevent reabuse or continued neglect of the minor or that failure to try



reunification will be detrimental to the minor because the minor is closely and positively attached to that parent. The probation officer shall investigate the circumstances leading to the removal of the minor and advise the court whether there are circumstances which indicate that reunification is likely to be successful or unsuccessful and whether failure to order reunification is likely to be detrimental to the minor.

The failure of the parent to respond to previous services, the fact that the minor was abused while the parent was under the influence of drugs or alcohol, a past history of violent behavior, or testimony by a competent professional that the parent's behavior is unlikely to be changed by services are among the factors indicating that reunification services are unlikely to be successful. The fact that a parent or guardian is no longer living with an individual who severely abused the minor may be considered in deciding that reunification services are likely to be successful, provided that the court shall consider any pattern of behavior on the part of the parent that has exposed the minor to repeated abuse.

(d) If reunification services are not ordered pursuant to paragraph (1) of subdivision (b) and the whereabouts of a parent become known within six months of the out-of-home placement of the minor, the court shall order the probation officer to provide family reunification services in accordance with this subdivision. However, the time limits specified in subdivision (a) and Section 366.25 are not tolled by the parent's absence.

(e) (1) If the parent or guardian is incarcerated or institutionalized, the court shall order reasonable services unless the court determines, by clear and convincing evidence, those services would be detrimental to the minor. In determining detriment, the court shall consider the age of the minor, the degree of parent-child bonding, the length of the sentence, the nature of the treatment, the nature of crime or illness, the degree of detriment to the minor if services are not offered and, for minors 10 years of age or older, the minor's attitude toward the implementation of family reunification services, and any other appropriate factors. Reunification services are subject to the 18-month limitation imposed in subdivision (a). Services may include, but shall not be limited to, all of the following:

(A) Maintaining contact between the parent and minor through collect telephone calls.

(B) Transportation services, where appropriate.

(C) Visitation services, where appropriate.

(D) Reasonable services to extended family members or foster parents providing care for the minor if the services are not detrimental to the minor.

An incarcerated parent may be required to attend counseling, parenting classes, or vocational training programs as part of the service plan if these programs are available.

(2) The presiding judge of the juvenile court of each county may convene representatives of the county welfare department, the sheriff's department, and other appropriate entities for the purpose of developing and entering into protocols for ensuring the notification, transportation, and presence of an incarcerated or institutionalized parent at all court hearings involving proceedings affecting the minor pursuant to Section 2625 of the Penal Code.

(3) Notwithstanding any other provision of law, if the incarcerated parent is a woman seeking to participate in the community treatment program operated by the Department of Corrections pursuant to Chapter 4.8 (commencing with Section 1174) of Title 7 of Part 2 of, Chapter 4 (commencing with Section 3410) of Title 2 of Part 3 of, the Penal Code, the court shall determine whether the parent's participation in a program is in the child's best interest and whether it is suitable to meet the needs of the parent and child.

(f) If a court, pursuant to paragraph (2), (3), (4), (5), (6), (7), (8), (9), (10), (11), (12), or (13) of subdivision (b) or paragraph (1) of subdivision (e), does not order reunification services, it shall conduct a hearing pursuant to Section 366.25 or 366.26 within 120 days of the dispositional hearing. However, the court shall not schedule a hearing so long as the other parent is being provided reunification services pursuant to subdivision (a). The court may continue to permit the parent to visit the minor unless it finds that visitation would be detrimental to the minor.

(g) Whenever a court orders that a hearing shall be held pursuant to Section 366.25 or 366.26, it shall direct the agency supervising the minor and the licensed county adoption agency, or the State Department of Social Services when it is acting as an adoption agency in counties which are not served by a county adoption agency, to prepare an assessment which shall include:

(1) Current search efforts for an absent parent or parents.

(2) A review of the amount of and nature of any contact between the minor and his or her parents since the time of placement.

(3) An evaluation of the minor's medical, development, scholastic, mental, and emotional status.

(4) A preliminary assessment of the eligibility and commitment of any identified prospective adoptive parent or guardian, particularly the caretaker, to include a social history including screening for criminal records and prior referrals for child abuse or neglect, the capability to meet the minor's needs, and the understanding of the legal and financial rights and responsibilities of adoption and guardianship.

(5) The relationship of the minor to any identified prospective adoptive parent or guardian, the duration and character of the relationship, the motivation for seeking adoption or guardianship, and a statement from the minor concerning placement and the



adoption or guardianship, unless the minor's age or physical, emotional, or other condition precludes his or her meaningful response, and if so, a description of the condition.

(6) An analysis of the likelihood that the minor will be adopted if parental rights are terminated.

(h) In determining whether reunification services will benefit the minor pursuant to paragraph (6) or (7) of subdivision (b), the court shall consider any information it deems relevant, including the following factors:

(1) The specific act or omission comprising the severe sexual abuse or the severe physical harm inflicted on the minor or the minor's sibling or half-sibling.

(2) The circumstances under which the abuse or harm was inflicted on the minor or the minor's sibling or half-sibling.

(3) The severity of the emotional trauma suffered by the minor or the minor's sibling or half-sibling.

(4) Any history of abuse of other children by the offending parent or guardian.

(5) The likelihood that the minor may be safely returned to the care of the offending parent or guardian within 18 months with no continuing supervision.

(6) Whether or not the minor desires to be reunified with the offending parent or guardian.

(i) The court shall read into the record the basis for a finding of severe sexual abuse or the infliction of severe physical harm under paragraph (6) of subdivision (b), and shall also specify the factual findings used to determine that the provision of reunification services to the offending parent or guardian would not benefit the minor.

(j) This section shall become operative January 1, 1999.

SEC. 19. Section 366 of the Welfare and Institutions Code is amended to read:

366. (a) The status of every dependent child in foster care shall be reviewed periodically as determined by the court but no less frequently than once every six months, as calculated from the date of the original dispositional hearing, until the hearing described in Section 366.25 or 366.26 is completed. The court shall determine the continuing necessity for and appropriateness of the placement, the extent of compliance with the case plan, the continuing need to suspend sibling interaction, if applicable, pursuant to subdivision (c) of Section 16002, and the extent of progress which has been made toward alleviating or mitigating the causes necessitating placement in foster care, and shall project a likely date by which the child may be returned to the home or placed for adoption or legal guardianship.

(b) Subsequent to the hearing periodic reviews of each child in foster care shall be conducted pursuant to the requirements of Sections 366.3 and 16503.

(c) If the child has been placed out-of-state, each review described in subdivision (a) and any reviews conducted pursuant to Sections 366.3 and 16503 shall also address whether the out-of-state placement continues to be the most appropriate placement selection and in the best interests of the child.

SEC. 20. Section 366.21 of the Welfare and Institutions Code, as amended by Section 6.9 of Chapter 1084 of the Statutes of 1996, is amended to read:

366.21. (a) Every hearing conducted by the juvenile court reviewing the status of a dependent child shall be placed on the appearance calendar. The court shall advise all persons present at the hearing of the date of the future hearing and of their right to be present and represented by counsel.

(b) Except as provided in Section 366.23 and subdivision (a) of Section 366.3, notice of the hearing shall be mailed by the probation officer to the same persons as in the original proceeding, to the minor's parent or guardian, to the foster parents, community care facility, or foster family agency having physical custody of the minor in the case of a minor removed from the physical custody of his or her parent or guardian, and to the counsel of record if the counsel of record was not present at the time that the hearing was set by the court, by first-class mail addressed to the last known address of the person to be notified, or shall be personally served on those persons, not earlier than 30 days nor later than 15 days preceding the date to which the hearing was continued. Service of a copy of the notice personally or by certified mail return receipt requested, or any other form of actual notice is equivalent to service by first-class mail.

The notice shall contain a statement regarding the nature of the hearing to be held and any change in the custody or status of the minor being recommended by the supervising agency. The notice to the foster parent shall indicate that the foster parent may attend all hearings or may submit any information he or she deems relevant to the court in writing.

(c) At least 10 calendar days prior to the hearing the probation officer shall file a supplemental report with the court regarding the services provided or offered to the parent or guardian to enable them to assume custody and the efforts made to achieve legal permanence for the child if efforts to reunify fail, the progress made, and, where relevant, the prognosis for return of the minor to the physical custody of his or her parent or guardian, and make his or her recommendation for disposition. If the recommendation is not to return the minor to a parent or guardian, the report shall specify why the return of the minor would be detrimental to the minor. The probation officer shall provide the parent or guardian with a copy of the report, including his or her recommendation for disposition, at least 10 calendar days prior to the hearing. In the case of a minor removed from the physical custody of his or her parent or guardian, the probation officer shall



provide a summary of his or her recommendation for disposition to the counsel for the minor, any court-appointed child advocate, foster parents, community care facility, or foster family agency having the physical custody of the minor at least 10 calendar days before the hearing.

(d) Prior to any hearing involving a minor in the physical custody of a community care facility or foster family agency that may result in the return of the minor to the physical custody of his or her parent or guardian, or in adoption or the creation of a legal guardianship, the facility or agency shall file with the court a report containing its recommendation for disposition. Prior to such a hearing involving a minor in the physical custody of a foster parent, the foster parent may file with the court a report containing his or her recommendation for disposition. The court shall consider the report and recommendation filed pursuant to this subdivision prior to determining any disposition.

(e) At the review hearing held six months after the initial dispositional hearing, the court shall order the return of the minor to the physical custody of his or her parent or guardian unless the court finds, by a preponderance of the evidence, that the return of the minor to his or her parent or guardian would create a substantial risk of detriment to the safety, protection, or physical or emotional well-being of the minor. The probation officer shall have the burden of establishing that detriment. The failure of the parent or guardian to participate regularly in court-ordered treatment programs shall be prima facie evidence that return would be detrimental. In making its determination, the court shall review and consider the probation officer's report and recommendations and the report and recommendations of any child advocate appointed pursuant to Section 356.5; and shall consider the efforts or progress, or both, demonstrated by the parent or guardian and the extent to which he or she cooperated and availed himself or herself of services provided.

Evidence of any or all of the following circumstances shall not, in and of themselves, be deemed a failure to provide or offer reasonable services:

(A) The child has been placed with a foster family that is eligible to adopt a child, or has been placed in a preadoptive home.

(B) The case plan includes services to achieve legal permanence for the child if efforts to reunify fail.

(C) Services to achieve legal permanence for the child, if efforts to reunify fail, are provided concurrently with services to reunify the family.

Whether or not the minor is returned to a parent or guardian, the court shall specify the factual basis for its conclusion that the return would be detrimental or would not be detrimental. The court also shall make appropriate findings pursuant to subdivision (a) of Section 366; and where relevant, shall order any additional services



reasonably believed to facilitate the return of the minor to the custody of his or her parent or guardian. The court shall also inform the parent or guardian that if the minor cannot be returned home by the next review hearing, a proceeding pursuant to Section 366.26 may be instituted. This section does not apply in a case where, pursuant to Section 361.5, the court has ordered that reunification services shall not be provided.

If the minor was under the age of three years on the date of the initial removal and the court finds by clear and convincing evidence that the parent failed to participate regularly in any court-ordered treatment plan, the court may schedule a hearing pursuant to Section 366.26 within 120 days. If, however, the court finds there is a substantial probability that the minor, who was under the age of three years on the date of initial removal, may be returned to his or her parent or guardian within six months or that reasonable services have not been provided, the court shall continue the case.

If the minor was removed initially under subdivision (g) of Section 300 and the court finds by clear and convincing evidence that the whereabouts of the parent are still unknown, or the parent has failed to contact and visit the minor, the court may schedule a hearing pursuant to Section 366.26 within 120 days. If the court finds by clear and convincing evidence that the parent has been convicted of a felony indicating parental unfitness, the court may schedule a hearing pursuant to Section 366.26 within 120 days.

If the minor had been placed under court supervision with a previously noncustodial parent pursuant to Section 361.2, the court shall determine whether supervision is still necessary. The court may terminate supervision and transfer permanent custody to that parent, as provided for by paragraph (1) of subdivision (a) of Section 361.2.

In all other cases, the court shall direct that any reunification services previously ordered shall continue to be offered to the parent or guardian pursuant to the time periods set forth in subdivision (a) of Section 361.5, provided that the court may modify the terms and conditions of those services. If the minor is not returned to his or her parent or guardian, the court shall determine whether reasonable services have been provided or offered to the parent or guardian which were designed to aid the parent or guardian in overcoming the problems which led to the initial removal and the continued custody of the minor. The court shall order that those services be initiated, continued, or terminated.

(f) At the review hearing held 12 months after the initial dispositional hearing, the court shall order the return of the minor to the physical custody of his or her parent or guardian unless the court finds, by a preponderance of the evidence, that the return of the minor to his or her parent or guardian would create a substantial risk of detriment to the safety, protection, or physical or emotional



well-being of the minor. The probation officer shall have the burden of establishing that detriment. The court shall also determine whether reasonable services have been provided or offered to the parent or guardian which were designed to aid the parent or guardian to overcome the problems that led to the initial removal and continued custody of the minor. The failure of the parent or guardian to participate regularly in court-ordered treatment programs shall be prima facie evidence that return would be detrimental. In making its determination, the court shall review and consider the probation officer's report and recommendations and the report and recommendations of any child advocate appointed pursuant to Section 356.5; shall consider the efforts or progress, or both, demonstrated by the parent or guardian and the extent to which he or she availed himself or herself of services provided; and shall make appropriate findings pursuant to subdivision (a) of Section 366.

Evidence of any or all of the following circumstances shall not, in and of themselves, be deemed a failure to provide or offer reasonable services:

(A) The child has been placed with a foster family that is eligible to adopt a child, or has been placed in a preadoptive home.

(B) The case plan includes services to achieve legal permanence for the child if efforts to reunify fail.

(C) Services to achieve legal permanence for the child, if efforts to reunify fail, are provided concurrently with services to reunify the family.

Whether or not the minor is returned to his or her parent or guardian, the court shall specify the factual basis for its decision. If the minor is not returned to a parent or guardian, the court shall specify the factual basis for its conclusion that the return would be detrimental. The court also shall make a finding pursuant to subdivision (a) of Section 366.

(g) If the time period in which the court-ordered services were provided has met or exceeded the time period set forth in paragraph (1) or (2) of subdivision (a) of Section 361.5, as appropriate, and a minor is not returned to the custody of a parent or guardian at the hearing held pursuant to subdivision (f), the court shall do one of the following:

(1) Continue the case for up to six months for another review hearing, provided that the hearing shall occur within 18 months of the date the minor was originally taken from the physical custody of his or her parent or guardian. The court shall continue the case only if it finds that there is a substantial probability that the minor will be returned to the physical custody of his or her parent or guardian within six months or that reasonable services have not been provided to the parent or guardian. The court shall inform the parent or guardian that if the minor cannot be returned home by the next review hearing, a permanent plan shall be developed at that hearing.



The court shall not order that a hearing pursuant to Section 366.26 be held unless there is clear and convincing evidence that reasonable services have been provided or offered to the parent or guardian.

(2) Order that the minor remain in long-term foster care, if the court finds by clear and convincing evidence, based upon the evidence already presented to it, that the minor is not a proper subject for adoption and has no one willing to accept legal guardianship.

(3) Order that a hearing be held within 120 days, pursuant to Section 366.26, if there is clear and convincing evidence that reasonable services have been provided or offered to the parents.

Evidence of any or all of the following circumstances shall not, in and of themselves, be deemed a failure to provide or offer reasonable services:

(A) The child has been placed with a foster family that is eligible to adopt a child, or has been placed in a preadoptive home.

(B) The case plan includes services to achieve legal permanence for the child if efforts to reunify fail.

(C) Services to achieve legal permanence for the child, if efforts to reunify fail, are provided concurrently with services to reunify the family.

(h) In any case in which the court orders that a hearing pursuant to Section 366.26 shall be held, it shall also order the termination of reunification services to the parent. The court shall continue to permit the parent to visit the minor pending the hearing unless it finds that visitation would be detrimental to the minor.

(i) Whenever a court orders that a hearing pursuant to Section 366.26 shall be held, it shall direct the agency supervising the child and the licensed county adoption agency, or the State Department of Social Services when it is acting as an adoption agency in counties which are not served by a county adoption agency, to prepare an assessment regarding the likelihood that the minor will be adopted if parental rights are terminated. The assessment shall include:

(1) Current search efforts for an absent parent or parents.

(2) A review of the amount of and nature of any contact between the minor and his or her parents since the time of placement.

(3) An evaluation of the minor's medical, developmental, scholastic, mental, and emotional status and an analysis of whether any of the minor's characteristics would make it difficult to find a person willing to adopt the minor.

(4) A preliminary assessment of the eligibility and commitment of any identified prospective adoptive parent or guardian, particularly the caretaker, to include a social history including screening for criminal records and prior referrals for child abuse or neglect, the capability to meet the minor's needs, and the understanding of the legal and financial rights and responsibilities of adoption and guardianship.



(5) The relationship of the minor to any identified prospective adoptive parent or guardian, the duration and character of the relationship, the motivation for seeking adoption or guardianship, and a statement from the minor concerning placement and the adoption or guardianship, unless the minor's age or physical, emotional, or other condition precludes his or her meaningful response, and if so, a description of the condition.

(j) This section shall apply to minors made dependents of the court pursuant to subdivision (c) of Section 360 on or after January 1, 1989.

(k) This section shall remain in effect only until January 1, 1999, and as of that date is repealed, unless a later enacted statute, which is enacted on or before January 1, 1999, deletes or extends that date.

SEC. 21. Section 366.21 of the Welfare and Institutions Code, as amended by Section 7.9 of Chapter 1084 of the Statutes of 1996, is amended to read:

366.21. (a) Every hearing conducted by the juvenile court reviewing the status of a dependent child shall be placed on the appearance calendar. The court shall advise all persons present at the hearing of the date of the future hearing and of their right to be present and represented by counsel.

(b) Except as provided in Section 366.23 and subdivision (a) of Section 366.3, notice of the hearing shall be mailed by the probation officer to the same persons as in the original proceeding, to the minor's parent or guardian, to the foster parents, community care facility, or foster family agency having physical custody of the minor in the case of a minor removed from the physical custody of his or her parent or guardian, and to the counsel of record if the counsel of record was not present at the time that the hearing was set by the court, by first-class mail addressed to the last known address of the person to be notified, or shall be personally served on those persons, not earlier than 30 days nor later than 15 days preceding the date to which the hearing was continued. Service of a copy of the notice personally or by certified mail return receipt requested, or any other form of actual notice is equivalent to service by first-class mail.

The notice shall contain a statement regarding the nature of the hearing to be held and any change in the custody or status of the minor being recommended by the supervising agency. The notice to the foster parent shall indicate that the foster parent may attend all hearings or may submit any information he or she deems relevant to the court in writing.

(c) At least 10 calendar days prior to the hearing the probation officer shall file a supplemental report with the court regarding the services provided or offered to the parent or guardian to enable them to assume custody and the efforts made to achieve legal permanence for the child if efforts to reunify fail, the progress made, and, where relevant, the prognosis for return of the minor to the physical custody

of his or her parent or guardian, and make his or her recommendation for disposition. If the recommendation is not to return the minor to a parent or guardian, the report shall specify why the return of the minor would be detrimental to the minor. The probation officer shall provide the parent or guardian with a copy of the report, including his or her recommendation for disposition, at least 10 calendar days prior to the hearing. In the case of a minor removed from the physical custody of his or her parent or guardian, the probation officer shall provide a summary of his or her recommendation for disposition to the counsel for the minor, any court-appointed child advocate, foster parents, community care facility, or foster family agency having the physical custody of the minor at least 10 calendar days before the hearing.

(d) Prior to any hearing involving a minor in the physical custody of a community care facility or foster family agency that may result in the return of the minor to the physical custody of his or her parent or guardian, or in adoption or the creation of a legal guardianship, the facility or agency shall file with the court a report containing its recommendation for disposition. Prior to such a hearing involving a minor in the physical custody of a foster parent, the foster parent may file with the court a report containing its recommendation for disposition. The court shall consider the report and recommendation filed pursuant to this subdivision prior to determining any disposition.

(e) At the review hearing held six months after the initial dispositional hearing, the court shall order the return of the minor to the physical custody of his or her parent or guardian unless the court finds, by a preponderance of the evidence, that the return of the minor to his or her parent or guardian would create a substantial risk of detriment to the safety, protection, or physical or emotional well-being of the minor. The probation officer shall have the burden of establishing that detriment. The failure of the parent or guardian to participate regularly in court-ordered treatment programs shall be prima facie evidence that return would be detrimental. In making its determination, the court shall review and consider the probation officer's report and recommendations and the report and recommendations of any child advocate appointed pursuant to Section 356.5; and shall consider the efforts or progress, or both, demonstrated by the parent or guardian and the extent to which he or she availed himself or herself of services provided.

Evidence of any or all of the following circumstances shall not, in and of themselves, be deemed a failure to provide or offer reasonable services:

(A) The child has been placed with a foster family that is eligible to adopt a child, or has been placed in a preadoptive home.

(B) The case plan includes services to achieve legal permanence for the child if efforts to reunify fail.



(C) Services to achieve legal permanence for the child, if efforts to reunify fail, are provided concurrently with services to reunify the family.

Whether or not the minor is returned to a parent or guardian, the court shall specify the factual basis for its conclusion that the return would be detrimental or would not be detrimental. The court also shall make appropriate findings pursuant to subdivision (a) of Section 366; and where relevant, shall order any additional services reasonably believed to facilitate the return of the minor to the custody of his or her parent or guardian. The court shall also inform the parent or guardian that if the minor cannot be returned home by the next review hearing, a proceeding pursuant to Section 366.26 may be instituted. This section does not apply in a case where, pursuant to Section 361.5, the court has ordered that reunification services shall not be provided.

If the minor was under the age of three years on the date of the initial removal and the court finds by clear and convincing evidence that the parent failed to participate regularly in any court-ordered treatment plan, the court may schedule a hearing pursuant to Section 366.26 within 120 days. If, however, the court finds there is a substantial probability that the minor, who was under the age of three years on the date of initial removal, may be returned to his or her parent or guardian within six months or that reasonable services have not been provided, the court shall continue the case.

If the minor was removed initially under subdivision (g) of Section 300 and the court finds by clear and convincing evidence that the whereabouts of the parent are still unknown, or the parent has failed to contact and visit the minor, the court may schedule a hearing pursuant to Section 366.26 within 120 days. If the court finds by clear and convincing evidence that the parent has been convicted of a felony indicating parental unfitness, the court may schedule a hearing pursuant to Section 366.26 within 120 days.

If the minor had been placed under court supervision with a previously noncustodial parent pursuant to Section 361.2, the court shall determine whether supervision is still necessary. The court may terminate supervision and transfer permanent custody to that parent, as provided for by paragraph (1) of subdivision (a) of Section 361.2.

In all other cases, the court shall direct that any reunification services previously ordered shall continue to be offered to the parent or guardian pursuant to the time periods set forth in subdivision (a) of Section 361.5, provided that the court may modify the terms and conditions of those services.

If the minor is not returned to his or her parent or guardian, the court shall determine whether reasonable services have been provided or offered to the parent or guardian which were designed to aid the parent or guardian in overcoming the problems which led



to the initial removal and the continued custody of the minor. The court shall order that those services be initiated, continued, or terminated.

(f) At the review hearing held 12 months after the initial dispositional hearing, the court shall order the return of the minor to the physical custody of his or her parent or guardian unless the court finds, by a preponderance of the evidence, that the return of the minor to his or her parent or guardian would create a substantial risk of detriment to the safety, protection, or physical or emotional well-being of the minor. The probation officer shall have the burden of establishing that detriment. The failure of the parent or guardian to participate regularly in court-ordered treatment programs shall be prima facie evidence that return would be detrimental. In making its determination, the court shall review and consider the probation officer's report and recommendations and the report and recommendations of any child advocate appointed pursuant to Section 356.5; shall consider the efforts or progress, or both, demonstrated by the parent or guardian and the extent to which he or she availed himself or herself of services provided; and shall make appropriate findings pursuant to subdivision (a) of Section 366.

Evidence of any or all of the following circumstances shall not, in and of themselves, be deemed a failure to provide or offer reasonable services:

(A) The child has been placed with a foster family that is eligible to adopt a child, or has been placed in a preadoptive home.

(B) The case plan includes services to achieve legal permanence for the child if efforts to reunify fail.

(C) Services to achieve legal permanence for the child, if efforts to reunify fail, are provided concurrently with services to reunify the family.

Whether or not the minor is returned to his or her parent or guardian, the court shall specify the factual basis for its decision. If the minor is not returned to a parent or guardian, the court shall specify the factual basis for its conclusion that the return would be detrimental. The court also shall make a finding pursuant to subdivision (a) of Section 366.

(g) If the time period in which the court-ordered services were provided has met or exceeded the time period set forth in paragraph (1) or (2) of subdivision (a) of Section 361.5, as appropriate, and a minor is not returned to the custody of a parent or guardian at the hearing held pursuant to subdivision (f), the court shall do one of the following:

(1) Continue the case for up to six months for another review hearing, provided that the hearing shall occur within 18 months of the date the minor was originally taken from the physical custody of his or her parent or guardian. The court shall continue the case only if it finds that there is a substantial probability that the minor will be



returned to the physical custody of his or her parent or guardian within six months or that reasonable services have not been provided to the parent or guardian. The court shall inform the parent or guardian that if the minor cannot be returned home by the next review hearing, a permanent plan shall be developed at that hearing. The court shall not order that a hearing pursuant to Section 366.26 be held unless there is clear and convincing evidence that reasonable services have been provided or offered to the parent or guardian.

(2) Order that the minor remain in long-term foster care, if the court finds by clear and convincing evidence, based upon the evidence already presented to it, that the minor is not a proper subject for adoption and has no one willing to accept legal guardianship.

(3) Order that a hearing be held within 120 days, pursuant to Section 366.26, if there is clear and convincing evidence that reasonable services have been provided or offered to the parents.

Evidence of any or all of the following circumstances shall not, in and of themselves, be deemed a failure to provide or offer reasonable services:

(A) The child has been placed with a foster family that is eligible to adopt a child, or has been placed in a preadoptive home.

(B) The case plan includes services to achieve legal permanence for the child if efforts to reunify fail.

(C) Services to achieve legal permanence for the child, if efforts to reunify fail, are provided concurrently with services to reunify the family.

(h) In any case in which the court orders that a hearing pursuant to Section 366.26 shall be held, it shall also order the termination of reunification services to the parent. The court shall continue to permit the parent to visit the minor pending the hearing unless it finds that visitation would be detrimental to the minor.

(i) Whenever a court orders that a hearing pursuant to Section 366.26 shall be held, it shall direct the agency supervising the minor and the licensed county adoption agency, or the State Department of Social Services when it is acting as an adoption agency in counties which are not served by a county adoption agency, to prepare an assessment which shall include:

(1) Current search efforts for an absent parent or parents.

(2) A review of the amount of and nature of any contact between the minor and his or her parents since the time of placement.

(3) An evaluation of the minor's medical, developmental, scholastic, mental, and emotional status.

(4) A preliminary assessment of the eligibility and commitment of any identified prospective adoptive parent or guardian, particularly the caretaker, to include a social history including screening for criminal records and prior referrals for child abuse or neglect, the capability to meet the minor's needs, and the understanding of the

legal and financial rights and responsibilities of adoption and guardianship.

(5) The relationship of the minor to any identified prospective adoptive parent or guardian, the duration and character of the relationship, the motivation for seeking adoption or guardianship, and a statement from the minor concerning placement and the adoption or guardianship, unless the minor's age or physical, emotional, or other condition precludes his or her meaningful response, and if so, a description of the condition.

(6) An analysis of the likelihood that the minor will be adopted if parental rights are terminated.

(j) This section shall apply to minors made dependents of the court pursuant to subdivision (c) of Section 360 on or after January 1, 1989.

(k) This section shall become operative January 1, 1999.

SEC. 22. Section 366.22 of the Welfare and Institutions Code, as amended by Section 8 of Chapter 1084 of the Statutes of 1996, is amended to read:

366.22. (a) When a case has been continued pursuant to paragraph (1) of subdivision (g) of Section 366.21, the court, at the 18-month hearing, shall order the return of the minor to the physical custody of his or her parent or guardian unless the court finds, by a preponderance of the evidence, that the return of the minor to his or her parent or guardian would create a substantial risk of detriment to the safety, protection, or physical or emotional well-being of the minor. The probation officer shall have the burden of establishing that detriment. The failure of the parent or guardian to participate regularly in court-ordered treatment programs shall be prima facie evidence that return would be detrimental. In making its determination, the court shall review and consider the probation officer's report and recommendations and the report and recommendations of any child advocate appointed pursuant to Section 356.5; shall consider the efforts or progress, or both, demonstrated by the parent or guardian and the extent to which he or she availed himself or herself of services provided; and shall make appropriate findings pursuant to subdivision (a) of Section 366.

Evidence of any or all of the following circumstances shall not, in and of themselves, be deemed a failure to provide or offer reasonable services:

(A) The child has been placed with a foster family that is eligible to adopt a child, or has been placed in a preadoptive home.

(B) The case plan includes services to achieve legal permanence for the child if efforts to reunify fail.

(C) Services to achieve legal permanence for the child, if efforts to reunify fail, are provided concurrently with services to reunify the family.

Whether or not the minor is returned to his or her parent or guardian, the court shall specify the factual basis for its decision. If the minor is not returned to a parent or guardian, the court shall specify the factual basis for its conclusion that return would be detrimental.

If the minor is not returned to a parent or guardian at the 18-month hearing, the court shall develop a permanent plan. The court shall order that a hearing be held pursuant to Section 366.26 in order to determine whether adoption, guardianship, or long-term foster care is the most appropriate plan for the minor. However, if the court finds by clear and convincing evidence, based on the evidence already presented to it that the minor is not a proper subject for adoption and has no one willing to accept legal guardianship, the court may order that the minor remain in long-term foster care. The hearing shall be held no later than 120 days from the date of the 18-month hearing. The court shall also order termination of reunification services to the parent. The court shall continue to permit the parent to visit the minor unless it finds that visitation would be detrimental to the minor. The court shall determine whether reasonable services have been offered or provided to the parent or guardian.

(b) Whenever a court orders that a hearing pursuant to Section 366.26 shall be held, it shall direct the agency supervising the child and the licensed county adoption agency, or the State Department of Social Services when it is acting as an adoption agency in counties which are not served by a county adoption agency, to prepare an assessment regarding the likelihood that the minor will be adopted if parental rights are terminated. The assessment shall include:

(1) Current search efforts for an absent parent or parents.

(2) A review of the amount of and nature of any contact between the minor and his or her parents or other members of his or her extended family since the time of placement. Although the extended family of each minor shall be reviewed on a case-by-case basis, “extended family” for the purposes of this paragraph shall include, but not be limited to, the minor’s siblings, grandparents, aunts, and uncles.

(3) An evaluation of the minor’s medical, developmental, scholastic, mental, and emotional status and an analysis of whether any of the minor’s characteristics would make it difficult to find a person willing to adopt the minor.

(4) A preliminary assessment of the eligibility and commitment of any identified prospective adoptive parent or guardian, particularly the caretaker, to include a social history including screening for criminal records and prior referrals for child abuse or neglect, the capability to meet the minor’s needs, and the understanding of the legal and financial rights and responsibilities of adoption and guardianship.

(5) The relationship of the minor to any identified prospective adoptive parent or guardian, the duration and character of the

relationship, the motivation for seeking adoption or guardianship, and a statement from the minor concerning placement and the adoption or guardianship, unless the minor's age or physical, emotional, or other condition precludes his or her meaningful response, and if so, a description of the condition.

(c) This section shall remain in effect only until January 1, 1999, and as of that date is repealed, unless a later enacted statute, which is enacted on or before January 1, 1999, deletes or extends that date.

SEC. 23. Section 366.22 of the Welfare and Institutions Code, as amended by Section 9 of Chapter 1084 of the Statutes of 1996, is amended to read:

366.22. (a) When a case has been continued pursuant to paragraph (1) of subdivision (g) of Section 366.21, the court, at the 18-month hearing, shall order the return of the minor to the physical custody of his or her parent or guardian unless the court finds, by a preponderance of the evidence, that the return of the minor to his or her parent or guardian would create a substantial risk of detriment to the safety, protection, or physical or emotional well-being of the minor. The probation officer shall have the burden of establishing that detriment. The failure of the parent or guardian to participate regularly in court-ordered treatment programs shall be prima facie evidence that return would be detrimental. In making its determination, the court shall review and consider the probation officer's report and recommendations and the report and recommendations of any child advocate appointed pursuant to Section 356.5; shall consider the efforts or progress, or both, demonstrated by the parent or guardian and the extent to which he or she availed himself or herself of services provided; and shall make appropriate findings pursuant to subdivision (a) of Section 366.

Evidence of any or all of the following circumstances shall not, in and of themselves, be deemed a failure to provide or offer reasonable services:

(A) The child has been placed with a foster family that is eligible to adopt a child, or has been placed in a preadoptive home.

(B) The case plan includes services to achieve legal permanence for the child if efforts to reunify fail.

(C) Services to achieve legal permanence for the child, if efforts to reunify fail, are provided concurrently with services to reunify the family.

Whether or not the minor is returned to his or her parent or guardian, the court shall specify the factual basis for its decision. If the minor is not returned to a parent or guardian, the court shall specify the factual basis for its conclusion that return would be detrimental.

If the minor is not returned to a parent or guardian at the 18-month hearing, the court shall develop a permanent plan. The court shall order that a hearing be held pursuant to Section 366.26 in order to determine whether adoption, guardianship, or long-term foster care

is the most appropriate plan for the minor. However, if the court finds by clear and convincing evidence, based on the evidence already presented to it that the minor is not a proper subject for adoption and has no one willing to accept legal guardianship, the court may order that the minor remain in long-term foster care. The hearing shall be held no later than 120 days from the date of the 18-month hearing. The court shall also order termination of reunification services to the parent. The court shall continue to permit the parent to visit the minor unless it finds that visitation would be detrimental to the minor. The court shall determine whether reasonable services have been offered or provided to the parent or guardian.

(b) Whenever a court orders that a hearing pursuant to Section 366.26 shall be held, it shall direct the agency supervising the child and the licensed county adoption agency, or the State Department of Social Services when it is acting as an adoption agency in counties which are not served by a county adoption agency, to prepare an assessment which shall include:

(1) Current search efforts for an absent parent or parents.

(2) A review of the amount of and nature of any contact between the minor and his or her parents or other members of his or her extended family since the time of placement. Although the extended family of each minor shall be reviewed on a case-by-case basis, “extended family” for the purposes of this paragraph shall include, but not be limited to, the minor’s siblings, grandparents, aunts, and uncles.

(3) An evaluation of the minor’s medical, developmental, scholastic, mental, and emotional status.

(4) A preliminary assessment of the eligibility and commitment of any identified prospective adoptive parent or guardian, particularly the caretaker, to include a social history including screening for criminal records and prior referrals for child abuse or neglect, the capability to meet the minor’s needs, and the understanding of the legal and financial rights and responsibilities of adoption and guardianship.

(5) The relationship of the minor to any identified prospective adoptive parent or guardian, the duration and character of the relationship, the motivation for seeking adoption or guardianship, and a statement from the minor concerning placement and the adoption or guardianship, unless the minor’s age or physical, emotional, or other condition precludes his or her meaningful response, and if so, a description of the condition.

(6) An analysis of the likelihood that the minor will be adopted if parental rights are terminated.

(c) This section shall become operative January 1, 1999.

SEC. 24. Section 366.23 of the Welfare and Institutions Code is amended to read:

366.23. (a) Whenever a juvenile court schedules a hearing pursuant to Section 366.26 regarding a minor, it shall direct that the fathers, presumed and alleged, and mother of the minor, the minor, if 10 years of age or older, and any counsel of record, shall be notified of the time and place of the proceedings and advised that they may appear. The notice shall also advise them of the right to counsel, the nature of the proceedings, and of the requirement that at the proceedings the court shall select and implement a plan of adoption, legal guardianship, or long-term foster care for the minor. In all cases where a parent has relinquished his or her child for the purpose of adoption, no notice need be given to that parent. Service of the notice shall be completed at least 45 days before the date of the hearing, except in those cases where notice by publication is ordered in which case the service of the notice shall be completed at least 30 days before the date of the hearing. If the petitioner is recommending termination of parental rights, notice of this recommendation shall be either included in the notice of a hearing scheduled pursuant to Section 366.26 and served within the time period specified in this subdivision or provided by separate notice to all persons entitled to receive notice by first-class mail at least 15 days before the scheduled hearing.

(b) Notice to the parent of the hearing may be given in any of the following manners:

(1) Personal service to the parent named in the notice.

(2) Delivery to a competent person who is at least 18 years of age at the parent's usual place of residence or business, and thereafter mailed to the parent named in the notice by first-class mail at the place where the notice was delivered.

(3) If the place of residence is outside the state, service may be made in the manner prescribed in paragraph (1) or (2), or by certified mail, return receipt requested.

(4) If the recommendation of the petitioner is limited to legal guardianship or long-term foster care, service may be made by first-class mail to the parent's usual place of residence or business.

(5) If the father or mother of the minor or any person alleged to be or claiming to be the father or mother cannot, with reasonable diligence, be served as provided for in paragraph (1), (2), (3), or (4) or if his or her place of residence is not known, the probation officer shall file an affidavit with the court at least 75 days before the date of the hearing, stating the name of the father or mother or alleged father or mother and his or her place of residence, if known, setting forth the efforts that have been made to locate and serve the parent.

(A) If the court determines that there has been due diligence in attempting to locate and serve the parent, and the petitioner limits the recommendation to legal guardianship or long-term foster care, the court shall order that notice be given to the grandparents of the minor, if there are any and if their residences and relationships to the

minor are known, by first-class mail of the time and place of the proceedings and that they may appear. In any case where the residence of the parent or alleged parent becomes known, notice shall immediately be served upon the parent or alleged parent as set forth in paragraph (1), (2), (3), or (4).

(B) If the court determines that there has been due diligence in attempting to locate and serve the parent and the petitioner does not limit the recommendation to legal guardianship or long-term foster care, the court shall order that service to the parent be by certified mail, return receipt requested, to the parent's counsel of record, if any. If the parent does not have counsel of record, the court shall order that the service be made by publication of a citation requiring the father or mother, or alleged father or mother, to appear at the time and place stated in the citation, and that the citation be published in a newspaper designated as most likely to give notice to the father or mother. Publication shall be made once a week for four successive weeks. In case of service to the parent by certified mail on the counsel of record or publication where the residence of a parent or alleged parent becomes known, notice shall immediately be served upon the parent or alleged parent as set forth in paragraph (1), (2), or (3). When service to the parent by certified mail on the counsel of record or publication is ordered, service of a copy of the notice in the manner provided for in paragraph (1), (2), or (3) is equivalent to service by certified mail on the counsel of record or publication. In any case where service to the parent by certified mail on the counsel of record or publication is ordered, the court shall also order that notice be given to the grandparents of the minor, if there are any and if their residences and relationships to the minor are known, by first-class mail of the time and place of the proceedings and that they may appear.

If the identity of one or both of the parents or alleged parents of the minor is unknown or if the name of either or both of his or her parents or alleged parents is uncertain, then that fact shall be set forth in the affidavit and the court, if ordering publication, shall order the published citation to be directed to either the father or the mother, or both, of the minor, and to all persons claiming to be the father or mother of the minor naming and otherwise describing the minor. Personal service of a copy of the notice or any other form of actual notice to counsel of record is the equivalent of service to counsel of record by certified mail, return receipt requested.

(6) Notwithstanding paragraphs (1) to (5), inclusive, if the parent is present at the hearing at which the court schedules a hearing pursuant to Section 366.26 regarding the minor, the court shall advise the parent of the time and place of the proceedings, their right to counsel, the nature of the proceedings, and of the requirement that at the proceedings the court select and implement a plan of adoption, legal guardianship, or long-term foster care for the minor. The court



shall order the parent to appear for the proceedings and then direct that the parent be noticed thereafter by first-class mail to the parent's usual place of residence or business only.

(7) Notwithstanding paragraphs (1) to (5), inclusive, whenever the whereabouts of a parent is not known at the time the court schedules a hearing pursuant to Section 366.26 regarding a minor, and the petitioner presents to the court an affidavit setting forth the name of the parent and the efforts that have been made to locate the parent, the court shall order that the notice for the parent be as set forth in subparagraph (A) or (B) of paragraph (5).

(c) Notice to the minor, if 10 years of age or older of the hearing shall be by first-class mail.

(d) Service is deemed complete at the time the notice is personally delivered to the party named in the notice, or 10 days after the notice has been placed in the mail, or at the expiration of the time prescribed by the order for publication, whichever occurs first. Notwithstanding subdivision (a), if the counsel of record is present at the time that the court schedules a hearing pursuant to Section 366.26 no further notice to the counsel of record shall be required, except to notice counsel of a recommendation to terminate parental rights as set forth in subdivision (a) or as required by subparagraph (B) of paragraph (5) of subdivision (b).

(e) Notwithstanding subdivisions (a) and (b) of this section and Section 7666 of the Family Code, the juvenile court shall order that no notice of the hearing under Section 366.26 be provided to all of the following:

(1) A mother or presumed father who has relinquished the child to the State Department of Social Services or to a licensed adoption agency for adoption, and the relinquishment has been accepted and filed with notice as required under Section 8700 of the Family Code.

(2) An alleged father who has denied paternity and has executed Section 1 of Judicial Council form Paternity-Waiver of Rights (JV-505) waiving notice of further hearings.

(3) An alleged father who has relinquished the child to the department or to a licensed adoption agency for adoption, and the relinquishment has been accepted and filed with notice as required under Section 8700 of the Family Code.

SEC. 25. Section 366.26 of the Welfare and Institutions Code is amended to read:

366.26. (a) This section applies to minors who are adjudged dependent children of the juvenile court pursuant to subdivision (c) of Section 360 on or after January 1, 1989. The procedures specified herein are the exclusive procedures for conducting these hearings; Part 2 (commencing with Section 3020) of Division 8 of the Family Code is not applicable to these proceedings. Section 8714.7 of the Family Code is applicable and available to all dependent children meeting the requirements of that section. For minors who are

adjudged dependent children of the juvenile court pursuant to subdivision (c) of Section 360 on or after January 1, 1989, this section and Sections 8604, 8605, 8606, and 8700 of the Family Code and Chapter 5 (commencing with Section 7660) of Part 3 of Division 12 of the Family Code specify the exclusive procedures for permanently terminating parental rights with regard to, or establishing legal guardianship of, the minor while the minor is a dependent child of the juvenile court.

(b) At the hearing, which shall be held in juvenile court for all minors who are dependents of the juvenile court, the court, in order to provide stable, permanent homes for these minors, shall review the report as specified in Section 361.5, 366.21, or 366.22, shall indicate that the court has read and considered it, shall receive other evidence that the parties present, and then shall do one of the following:

(1) Permanently terminate the rights of the parent or parents and order that the minor be placed for adoption and, upon the filing of a petition for adoption in the juvenile court, order that a hearing be set. The court shall proceed with the adoption after the appellate rights of the natural parents have been exhausted.

(2) Without permanently terminating parental rights, identify adoption as the permanent placement goal and order that efforts be made to locate an appropriate adoptive family for the minor within a period not to exceed 90 days.

(3) Without permanently terminating parental rights, appoint a legal guardian for the minor and issue letters of guardianship.

(4) Order that the minor be placed in long-term foster care, subject to the regular review of the juvenile court.

In choosing among the above alternatives the court shall proceed pursuant to subdivision (c).

(c) At the hearing the court shall proceed pursuant to one of the following procedures:

(1) The court shall terminate parental rights only if it determines by clear and convincing evidence that it is likely that the minor will be adopted based upon the assessment made pursuant to subdivision (i) of Section 366.21 or subdivision (b) of Section 366.22. If the court so determines, the findings pursuant to subdivision (b) or paragraph (1) of subdivision (e) of Section 361.5 that reunification services shall not be offered, or the findings pursuant to subdivision (e) of Section 366.21 that the whereabouts of a parent have been unknown for six months or that the parent has failed to visit or contact the minor for six months or that the parent has been convicted of a felony indicating parental unfitness, or pursuant to Section 366.21 or 366.22 that a minor cannot or should not be returned to his or her parent or guardian, shall then constitute a sufficient basis for termination of parental rights unless the court finds that termination would be detrimental to the minor due to one of the following circumstances:



(A) The parents or guardians have maintained regular visitation and contact with the minor and the minor would benefit from continuing the relationship.

(B) A minor 12 years of age or older objects to termination of parental rights.

(C) The minor is placed in a residential treatment facility, adoption is unlikely or undesirable, and continuation of parental rights will not prevent finding the child a permanent family placement if the parents cannot resume custody when residential care is no longer needed.

(D) The minor is living with a relative or foster parent who is unable or unwilling to adopt the minor because of exceptional circumstances, which do not include an unwillingness to accept legal or financial responsibility for the minor, but who is willing and capable of providing the minor with a stable and permanent environment and the removal of the minor from the physical custody of his or her relative or foster parent would be detrimental to the emotional well-being of the minor. This subparagraph does not apply to any minor, who is living with a nonrelative and who is either (i) under six years of age or (ii) a member of a sibling group where at least one minor is under six years of age and the siblings are, or should be, permanently placed together.

(2) The court shall not terminate parental rights if at each and every hearing at which the court was required to consider reasonable efforts or services, the court has found that reasonable efforts were not made or that reasonable services were not offered or provided.

(3) If the court finds that termination of parental rights would not be detrimental to the minor pursuant to paragraph (1) and that the minor has a probability for adoption but is difficult to place for adoption and there are no prospective adoptive homes available to the minor, the court may identify adoption as the permanent placement goal and without terminating parental rights, order that efforts be made to locate an appropriate adoptive family for the minor for a period not to exceed 90 days. During this 90-day period, the public agency responsible for seeking adoptive parents, for each minor shall, to the extent possible, contact other private and public adoption agencies regarding the availability of the minor for adoption. During the 90-day period, the public agency shall conduct the search for adoptive parents in the same manner as prescribed for children in Sections 8708 and 8709 of the Family Code. At the expiration of this period, another hearing shall be held and the court shall proceed pursuant to paragraph (1), (3), or (4) of subdivision (b). For purposes of this section, a minor may only be found to be difficult to place for adoption if there are no prospective adoptive homes available to the minor because of the minor's membership in a sibling group, or the presence of a diagnosed medical, physical, or mental handicap, or the minor is aged seven years or more, and



evidence presented to the court in the assessment made pursuant to subdivision (i) of Section 366.21 or subdivision (b) of Section 366.22 indicates that the presence and severity of one or more of these factors renders the minor difficult to place.

(4) If the court finds that adoption of the minor or termination of parental rights is not in the interest of the minor, because one of the conditions in subparagraph (A), (B), (C), or (D) of paragraph (1) or in paragraph (2) applies, the court shall either order that the present caretakers or other appropriate persons shall become legal guardians of the minor or order that the minor remain in long-term foster care. Legal guardianship shall be considered before long-term foster care, if it is in the best interests of the minor and if a suitable guardian can be found. When the minor is living with a relative or a foster parent who is willing and capable of providing a stable and permanent environment, but not willing to become a legal guardian, the minor shall not be removed from the home if the court finds the removal would be seriously detrimental to the emotional well-being of the minor because the minor has substantial psychological ties to the relative caretaker or foster parents. The court shall also make an order for visitation with the parents or guardians unless the court finds by a preponderance of the evidence that the visitation would be detrimental to the physical or emotional well-being of the minor.

(5) If the court finds that the minor should not be placed for adoption, that legal guardianship shall not be established, and that there are no suitable foster parents except exclusive-use homes available to provide the minor with a stable and permanent environment, the court may order the care, custody, and control of the minor transferred from the county welfare department or probation department to a licensed foster family agency. The court shall consider the written recommendation of the county welfare director or chief probation officer regarding the suitability of such a transfer. The transfer shall be subject to further court orders.

The licensed foster family agency shall place the minor in a suitable licensed or exclusive-use home which has been certified by the agency as meeting licensing standards. The licensed foster family agency shall be responsible for supporting the minor and for providing appropriate services to the minor, including those services ordered by the court. Responsibility for the support of the minor shall not, in and of itself, create liability on the part of the foster family agency to third persons injured by the minor. Those minors whose care, custody, and control are transferred to a foster family agency shall not be eligible for foster care maintenance payments or child welfare services, except for emergency response services pursuant to Section 16504.

(d) The proceeding for the appointment of a guardian for a minor who is a dependent of the juvenile court shall be in the juvenile court. If the court finds pursuant to this section that legal guardianship is the

appropriate permanency plan, it shall appoint the legal guardian and issue letters of guardianship. The assessment prepared pursuant to subdivision (g) of Section 361.5, subdivision (i) of Section 366.21, and subdivision (b) of Section 366.22 shall be read and considered by the court prior to the appointment, and this shall be reflected in the minutes of the court. The person preparing the assessment may be called and examined by any party to the proceeding.

(e) The proceeding for the adoption of a minor who is a dependent of the juvenile court shall be in the juvenile court if the court finds pursuant to this section that adoption is the appropriate permanency plan and the petition for adoption is filed in the juvenile court. Upon the filing of a petition for adoption pursuant to Section 8714 of the Family Code, the juvenile court shall order that an adoption hearing be set. The court shall proceed with the adoption after the appellate rights of the natural parents have been exhausted. The full report required by Section 8715 of the Family Code shall be read and considered by the court prior to the adoption and this shall be reflected in the minutes of the court. The person preparing the report may be called and examined by any party to the proceeding. It is the intent of the Legislature, pursuant to this subdivision, to give potential adoptive parents the option of filing in the juvenile court the petition for the adoption of a minor who is a dependent of the juvenile court. Nothing in this section is intended to prevent the filing of such a petition for adoption in any other court as permitted by law, instead of in the juvenile court.

(f) At the beginning of any proceeding pursuant to this section, if the minor or the parents are not being represented by previously retained or appointed counsel, the court shall proceed as follows:

(1) The court shall consider whether the interests of the minor require the appointment of counsel. If the court finds that the interests of the minor do require this protection, the court shall appoint counsel to represent the minor. If the court finds that the interests of the minor require the representation of counsel, counsel shall be appointed whether or not the minor is able to afford counsel. The minor shall not be present in court unless the minor or the minor's counsel so requests or the court so orders.

(2) If a parent appears without counsel and is unable to afford counsel, the court shall appoint counsel for the parent, unless this representation is knowingly and intelligently waived. The same counsel shall not be appointed to represent both the minor and his or her parent. The public defender or private counsel may be appointed as counsel for the parent.

(3) Private counsel appointed under this section shall receive a reasonable sum for compensation and expenses, the amount of which shall be determined by the court. The amount shall be paid by the real parties in interest, other than the minor, in any proportions the court deems just. However, if the court finds that any of the real



parties in interest are unable to afford counsel, the amount shall be paid out of the general fund of the county.

(g) The court may continue the proceeding for not to exceed 30 days as necessary to appoint counsel, and to enable counsel to become acquainted with the case.

(h) At all proceedings under this section, the court shall consider the wishes of the minor and shall act in the best interests of the minor.

The testimony of the minor may be taken in chambers and outside the presence of the minor's parent or parents if the minor's parent or parents are represented by counsel, the counsel is present, and any of the following circumstances exist:

(1) The court determines that testimony in chambers is necessary to ensure truthful testimony.

(2) The minor is likely to be intimidated by a formal courtroom setting.

(3) The minor is afraid to testify in front of his or her parent or parents.

After testimony in chambers, the parent or parents of the minor may elect to have the court reporter read back the testimony or have the testimony summarized by counsel for the parent or parents.

The testimony of a minor also may be taken in chambers and outside the presence of the guardian or guardians of a minor under the circumstances specified in this subdivision.

(i) Any order of the court permanently terminating parental rights under this section shall be conclusive and binding upon the minor person, upon the parent or parents and upon all other persons who have been served with citation by publication or otherwise as provided in this chapter. After making such an order, the court shall have no power to set aside, change, or modify it, but nothing in this section shall be construed to limit the right to appeal the order.

(j) If the court, by order or judgment declares the minor free from the custody and control of both parents, or one parent if the other does not have custody and control, the court shall at the same time order the minor referred to the State Department of Social Services or a licensed adoption agency for adoptive placement by the agency. However, no petition for adoption may be granted until the appellate rights of the natural parents have been exhausted. The State Department of Social Services or licensed adoption agency shall be responsible for the custody and supervision of the minor and shall be entitled to the exclusive care and control of the minor at all times until a petition for adoption is granted. With the consent of the agency, the court may appoint a guardian of the minor, who shall serve until the minor is adopted.

(k) Notwithstanding any other provision of law, the application of any person who, as a relative caretaker or foster parent, has cared for a dependent child for whom the court has approved a permanent plan for adoption, or who has been freed for adoption, shall be given

preference with respect to that minor over all other applications for adoptive placement if the agency making the placement determines that the minor has substantial emotional ties to the relative caretaker or foster parent and removal from the relative caretaker or foster parent would be seriously detrimental to the minor's emotional well-being.

As used in this subdivision, "preference" means that the application shall be processed and, if satisfactory, the family study shall be completed before the processing of the application of any other person for the adoptive placement of the minor.

(l) (1) An order by the court that a hearing pursuant to this section be held is not appealable at any time unless all of the following applies:

(A) A petition for extraordinary writ review was filed in a timely manner.

(B) The petition substantively addressed the specific issues to be challenged and supported that challenge by an adequate record.

(C) The petition for extraordinary writ review was summarily denied or otherwise not decided on the merits.

(2) Failure to file a petition for extraordinary writ review within the period specified by rule, to substantively address the specific issues challenged, or to support that challenge by an adequate record shall preclude subsequent review by appeal of the findings and orders made pursuant to this section.

(3) The Judicial Council shall adopt rules of court, effective January 1, 1995, to ensure all of the following:

(A) A trial court, after issuance of an order directing a hearing pursuant to this section be held, shall advise all parties of the requirement of filing a petition for extraordinary writ review as set forth in this subdivision in order to preserve any right to appeal in these issues. This notice shall be made orally to a party if they are present at the time of the making of the order or by first-class mail by the clerk of the court to the last known address of a party not present at the time of the making of the order.

(B) The prompt transmittal of the records from the trial court to the appellate court.

(C) That adequate time requirements for counsel and court personnel exist to implement the objective of this subdivision.

(D) That the parent or guardian, or their trial counsel or other counsel, is charged with the responsibility of filing a petition for extraordinary writ relief pursuant to this subdivision.

(4) The intent of this subdivision is to do both of the following:

(A) Make every reasonable attempt to achieve a substantive and meritorious review by the appellate court within the time specified in Sections 366.21 and 366.22 for holding a hearing pursuant to this section.

(B) Encourage the appellate court to determine all writ petitions filed pursuant to this subdivision on their merits.

(5) This subdivision shall only apply to cases in which an order to set a hearing pursuant to this section is issued on or after January 1, 1995.

(m) This section shall remain in effect only until January 1, 1999, and as of that date is repealed, unless a later enacted statute, which is enacted on or before January 1, 1999, deletes or extends that date.

SEC. 26. Section 366.26 of the Welfare and Institutions Code is amended to read:

366.26. (a) This section applies to minors who are adjudged dependent children of the juvenile court pursuant to subdivision (c) of Section 360 on or after January 1, 1989. The procedures specified herein are the exclusive procedures for conducting these hearings; Part 2 (commencing with Section 3020) of Division 8 of the Family Code is not applicable to these proceedings. Section 8714.7 of the Family Code is applicable and available to all dependent children meeting the requirements of that section. For minors who are adjudged dependent children of the juvenile court pursuant to subdivision (c) of Section 360 on or after January 1, 1989, this section and Sections 8604, 8605, 8606, and 8700 of the Family Code and Chapter 5 (commencing with Section 7660) of Part 3 of Division 12 of the Family Code specify the exclusive procedures for permanently terminating parental rights with regard to, or establishing legal guardianship of, the minor while the minor is a dependent child of the juvenile court.

(b) At the hearing, which shall be held in juvenile court for all minors who are dependents of the juvenile court, the court, in order to provide stable, permanent homes for these minors, shall review the report as specified in Section 361.5, 366.21, or 366.22, shall indicate that the court has read and considered it, shall receive other evidence that the parties present, and then shall do one of the following:

(1) Permanently terminate the rights of the parent or parents and order that the minor be placed for adoption and, upon the filing of a petition for adoption in the juvenile court, order that a hearing be set. The court shall proceed with the adoption after the appellate rights of the natural parents have been exhausted.

(2) Without permanently terminating parental rights, identify adoption as the permanent placement goal and order that efforts be made to locate an appropriate adoptive family for the minor for a period not to exceed 90 days.

(3) Without permanently terminating parental rights, appoint a legal guardian for the minor and issue letters of guardianship.

(4) Order that the minor be placed in long-term foster care, subject to the regular review of the juvenile court.

In choosing among the above alternatives the court shall proceed pursuant to subdivision (c).

(c) At the hearing the court shall proceed pursuant to one of the following procedures:

(1) The court shall terminate parental rights only if it determines by clear and convincing evidence that it is likely that the minor will be adopted. If the court so determines, the findings pursuant to subdivision (b) or paragraph 1 of subdivision (e) of Section 361.5 that reunification services shall not be offered, or the findings pursuant to subdivision (e) of Section 366.21 that the whereabouts of a parent have been unknown for six months or that the parent has failed to visit or contact the child for six months or that the parent has been convicted of a felony indicating parental unfitness, or, pursuant to Section 366.21 or 366.22, that a minor cannot or should not be returned to his or her parent or guardian, shall then constitute a sufficient basis for termination of parental rights unless the court finds that termination would be detrimental to the minor due to one of the following circumstances:

(A) The parents or guardians have maintained regular visitation and contact with the minor and the minor would benefit from continuing the relationship.

(B) A minor 12 years of age or older objects to termination of parental rights.

(C) The minor is placed in a residential treatment facility, adoption is unlikely or undesirable, and continuation of parental rights will not prevent finding the minor a permanent family placement if the parents cannot resume custody when residential care is no longer needed.

(D) The minor is living with a relative or foster parent who is unable or unwilling to adopt the minor because of exceptional circumstances, which do not include an unwillingness to accept legal or financial responsibility for the minor, but who is willing and capable of providing the minor with a stable and permanent environment and the removal of the minor from the physical custody of his or her relative or foster parent would be detrimental to the emotional well-being of the minor. This subparagraph does not apply to any minor who is living with a nonrelative and who is either (i) under six years of age or (ii) a member of a sibling group where at least one minor is under six years of age and the sibling is, or should be, permanently placed together.

(2) The court shall not terminate parental rights if at each and every hearing at which the court was required to consider reasonable efforts or services, the court has found that reasonable efforts were not made or that reasonable services were not offered or provided.

(3) If the court finds that termination of parental rights would not be detrimental to the minor pursuant to paragraph (1) and that the minor has a probability for adoption but is difficult to place for adoption and there is no identified or available prospective adoptive parent, the court may identify adoption as the permanent placement

goal and without terminating parental rights, order that efforts be made to locate an appropriate adoptive family for the minor for a period not to exceed 90 days. During this 90-day period, the public agency responsible for seeking adoptive parents, for each minor shall, to the extent possible, contact other private and public adoption agencies regarding the availability of the minor for adoption. During the 90-day period, the public agency shall conduct the search for adoptive parents in the same manner as prescribed for children in Sections 8708 and 8709 of the Family Code. At the expiration of this period, another hearing shall be held and the court shall proceed pursuant to paragraph (1), (3), or (4) of subdivision (b). For purposes of this section, a minor may only be found to be difficult to place for adoption if there is no identified or available prospective adoptive parent for the minor because of the minor's membership in a sibling group, or the presence of a diagnosed medical, physical, or mental handicap, or the minor is the age of seven years or more.

(4) If the court finds that adoption of the minor or termination of parental rights is not in the interest of the minor, because one of the conditions in subparagraph (A), (B), (C), or (D) of paragraph (1) or in paragraph (2) applies, the court shall either order that the present caretakers or other appropriate persons shall become legal guardians of the minor or order that the minor remain in long-term foster care. Legal guardianship shall be considered before long-term foster care, if it is in the best interests of the minor and if a suitable guardian can be found. When the minor is living with a relative or a foster parent who is willing and capable of providing a stable and permanent environment, but not willing to become a legal guardian, the minor shall not be removed from the home if the court finds the removal would be seriously detrimental to the emotional well-being of the minor because the minor has substantial psychological ties to the relative caretaker or foster parents. The court shall also make an order for visitation with the parents or guardians unless the court finds by a preponderance of the evidence that the visitation would be detrimental to the physical or emotional well-being of the minor.

(5) If the court finds that the minor should not be placed for adoption, that legal guardianship shall not be established, and that there are no suitable foster parents except exclusive-use homes available to provide the minor with a stable and permanent environment, the court may order the care, custody, and control of the minor transferred from the county welfare department or probation department to a licensed foster family agency. The court shall consider the written recommendation of the county welfare director or chief probation officer regarding the suitability of such a transfer. The transfer shall be subject to further court orders.

The licensed foster family agency shall place the minor in a suitable licensed or exclusive-use home which has been certified by the agency as meeting licensing standards. The licensed foster family



agency shall be responsible for supporting the minor and for providing appropriate services to the minor, including those services ordered by the court. Responsibility for the support of the minor shall not, in and of itself, create liability on the part of the foster family agency to third persons injured by the minor. Those minors whose care, custody, and control are transferred to a foster family agency shall not be eligible for foster care maintenance payments or child welfare services, except for emergency response services pursuant to Section 16504.

(d) The proceeding for the appointment of a guardian for a minor who is a dependent of the juvenile court shall be in the juvenile court. If the court finds pursuant to this section that legal guardianship is the appropriate permanency plan, it shall appoint the legal guardian and issue letters of guardianship. The assessment prepared pursuant to subdivision (g) of Section 361.5, subdivision (i) of Section 366.21, and subdivision (b) of Section 366.22 shall be read and considered by the court prior to the appointment, and this shall be reflected in the minutes of the court. The person preparing the assessment may be called and examined by any party to the proceeding.

(e) The proceeding for the adoption of a minor who is a dependent of the juvenile court shall be in the juvenile court if the court finds pursuant to this section that adoption is the appropriate permanency plan and the petition for adoption is filed in the juvenile court. Upon the filing of a petition for adoption, the juvenile court shall order that an adoption hearing be set. The court shall proceed with the adoption after the appellate rights of the natural parents have been exhausted. The full report required by Section 8715 of the Family Code shall be read and considered by the court prior to the adoption and this shall be reflected in the minutes of the court. The person preparing the report may be called and examined by any party to the proceeding. It is the intent of the Legislature, pursuant to this subdivision, to give potential adoptive parents the option of filing in the juvenile court the petition for the adoption of a minor who is a dependent of the juvenile court. Nothing in this section is intended to prevent the filing of such a petition for adoption in any other court as permitted by law, instead of in the juvenile court.

(f) At the beginning of any proceeding pursuant to this section, if the minor or the parents are not being represented by previously retained or appointed counsel, the court shall proceed as follows:

(1) The court shall consider whether the interests of the minor require the appointment of counsel. If the court finds that the interests of the minor do require this protection, the court shall appoint counsel to represent the minor. If the court finds that the interests of the minor require the representation of counsel, counsel shall be appointed whether or not the minor is able to afford counsel. The minor shall not be present in court unless the minor or the minor's counsel so requests or the court so orders.



(2) If a parent appears without counsel and is unable to afford counsel, the court shall appoint counsel for the parent, unless this representation is knowingly and intelligently waived. The same counsel shall not be appointed to represent both the minor and his or her parent. The public defender or private counsel may be appointed as counsel for the parent.

(3) Private counsel appointed under this section shall receive a reasonable sum for compensation and expenses, the amount of which shall be determined by the court. The amount shall be paid by the real parties in interest, other than the minor, in any proportions the court deems just. However, if the court finds that any of the real parties in interest are unable to afford counsel, the amount shall be paid out of the general fund of the county.

(g) The court may continue the proceeding for not to exceed 30 days as necessary to appoint counsel, and to enable counsel to become acquainted with the case.

(h) At all proceedings under this section, the court shall consider the wishes of the minor and shall act in the best interests of the minor.

The testimony of the minor may be taken in chambers and outside the presence of the minor's parent or parents if the minor's parent or parents are represented by counsel, the counsel is present, and any of the following circumstances exist:

(1) The court determines that testimony in chambers is necessary to ensure truthful testimony.

(2) The minor is likely to be intimidated by a formal courtroom setting.

(3) The minor is afraid to testify in front of his or her parent or parents.

After testimony in chambers, the parent or parents of the minor may elect to have the court reporter read back the testimony or have the testimony summarized by counsel for the parent or parents.

The testimony of a minor also may be taken in chambers and outside the presence of the guardian or guardians of a minor under the circumstances specified in this subdivision.

(i) Any order of the court permanently terminating parental rights under this section shall be conclusive and binding upon the minor person, upon the parent or parents and upon all other persons who have been served with citation by publication or otherwise as provided in this chapter. After making such an order, the court shall have no power to set aside, change, or modify it, but nothing in this section shall be construed to limit the right to appeal the order.

(j) If the court, by order or judgment declares the minor free from the custody and control of both parents, or one parent if the other does not have custody and control, the court shall at the same time order the minor referred to the State Department of Social Services or a licensed adoption agency for adoptive placement by the agency. However, no petition for adoption may be granted until the appellate



rights of the natural parents have been exhausted. The State Department of Social Services or licensed adoption agency shall be responsible for the custody and supervision of the minor and shall be entitled to the exclusive care and control of the minor at all times until a petition for adoption is granted. With the consent of the agency, the court may appoint a guardian of the minor, who shall serve until the minor is adopted.

(k) Notwithstanding any other provision of law, the application of any person who, as a relative caretaker or foster parent, has cared for a dependent child for whom the court has approved a permanent plan for adoption, or who has been freed for adoption, shall be given preference with respect to that minor over all other applications for adoptive placement if the agency making the placement determines that the minor has substantial emotional ties to the relative caretaker or foster parent and removal from the relative caretaker or foster parent would be seriously detrimental to the minor's emotional well-being.

As used in this subdivision, "preference" means that the application shall be processed and, if satisfactory, the family study shall be completed before the processing of the application of any other person for the adoptive placement of the minor.

(l) (1) An order by the court that a hearing pursuant to this section be held is not appealable at any time unless all of the following applies:

(A) A petition for extraordinary writ review was filed in a timely manner.

(B) The petition substantively addressed the specific issues to be challenged and supported that challenge by an adequate record.

(C) The petition for extraordinary writ review was summarily denied or otherwise not decided on the merits.

(2) Failure to file a petition for extraordinary writ review within the period specified by rule, to substantively address the specific issues challenged, or to support that challenge by an adequate record shall preclude subsequent review by appeal of the findings and orders made pursuant to this section.

(3) The Judicial Council shall adopt rules of court, effective January 1, 1995, to ensure all of the following:

(A) A trial court, after issuance of an order directing a hearing pursuant to this section be held, shall advise all parties of the requirement of filing a petition for extraordinary writ review as set forth in this subdivision in order to preserve any right to appeal in these issues. This notice shall be made orally to a party if they are present at the time of the making of the order or by first-class mail by the clerk of the court to the last known address of a party not present at the time of the making of the order.

(B) The prompt transmittal of the records from the trial court to the appellate court.

(C) That adequate time requirements for counsel and court personnel exist to implement the objective of this subdivision.

(D) That the parent or guardian, or their trial counsel or other counsel, is charged with the responsibility of filing a petition for extraordinary writ relief pursuant to this subdivision.

(4) The intent of this subdivision is to do both of the following:

(A) Make every reasonable attempt to achieve a substantive and meritorious review by the appellate court within the time specified in Sections 366.21 and 366.22 for holding a hearing pursuant to this section.

(B) Encourage the appellate court to determine all writ petitions filed pursuant to this subdivision on their merits.

(5) This subdivision shall only apply to cases in which an order to set a hearing pursuant to this section is issued on or after January 1, 1995.

(m) This section shall be operative January 1, 1999.

SEC. 27. Section 366.3 of the Welfare and Institutions Code is amended to read:

366.3. (a) If a juvenile court orders a permanent plan of adoption or legal guardianship pursuant to Section 360, 366.25, or 366.26, the court shall retain jurisdiction over the minor until the minor is adopted or the legal guardianship is established. The status of the minor shall be reviewed every six months to ensure that the adoption or guardianship is completed as expeditiously as possible. When the adoption of the minor has been granted, the court shall terminate its jurisdiction over the minor. The court may continue jurisdiction over the minor as a dependent minor of the juvenile court following the establishment of a legal guardianship or may terminate its dependency jurisdiction and retain jurisdiction over the minor as a ward of the guardianship established pursuant to Section 360, 366.25, or 366.26 and as authorized by Section 366.4. Following a termination of parental rights the parent or parents shall not be a party to, or receive notice of, any subsequent proceedings regarding the minor.

(b) If the court has dismissed dependency jurisdiction following the establishment of a legal guardianship, or no dependency jurisdiction attached because of the granting of a legal guardianship pursuant to Section 360, and the legal guardianship is subsequently revoked or otherwise terminated, the county department of social services or welfare department shall notify the juvenile court of this fact. The court may vacate its previous order dismissing dependency jurisdiction over the minor.

Notwithstanding Section 1601 of the Probate Code, the proceedings to terminate a guardianship which has been granted pursuant to Section 360, 366.25, or 366.26 shall be held in the juvenile court, unless the termination is due to the emancipation or adoption of the minor. If the petition to terminate guardianship is granted, the juvenile court may resume dependency jurisdiction over the minor,

and may order the county department of social services or welfare department to develop a new permanent plan, which shall be presented to the court within 60 days of the termination. If no dependency jurisdiction has attached, the probation officer shall make any investigation he or she deems necessary to determine whether the minor may be within the jurisdiction of the juvenile court, as provided in Section 328.

Unless the parental rights of the child's parent or parents have been terminated, they shall be notified that the guardianship has been revoked or terminated and shall be entitled to participate in the new permanency planning hearing. The court shall try to place the minor in another permanent placement. At the hearing, the parents may be considered as custodians but the minor shall not be returned to the parent or parents unless they prove, by a preponderance of the evidence, that reunification is the best alternative for the minor. The court may, if it is in the interests of the minor, order that reunification services again be provided to the parent or parents.

(c) If, following the establishment of a legal guardianship, the county welfare department or probation department becomes aware of changed circumstances that indicate adoption may be an appropriate plan for the child, the department shall so notify the court. The court may vacate its previous order dismissing dependency jurisdiction over the minor and order that a hearing be held pursuant to Section 366.26 to determine whether adoption or continued guardianship is the most appropriate plan for the minor. The hearing shall be held no later than 120 days from the date of the order. Whenever the court orders that a hearing shall be held pursuant to Section 366.26, the court shall direct the agency supervising the child and the licensed county adoption agency, or the State Department of Social Services when it is acting as an adoption agency in counties that are not served by a county adoption agency, to prepare an assessment under subdivision (b) of Section 366.22.

(d) If the minor is in a placement other than the home of a legal guardian and jurisdiction has not been dismissed, the status of the minor shall be reviewed every six months. This review may be conducted by the court or an appropriate local agency. The court shall conduct the review under the following circumstances:

- (1) Upon the request of the minor's parents or guardians.
- (2) Upon the request of the minor.

(3) It has been 12 months since a hearing held pursuant to Section 366.26 or an order that the minor remain in long-term foster care pursuant to paragraph (2) of subdivision (g) of Section 366.21, subdivision (a) of Section 366.26, or subdivision (f).

(4) It has been 12 months since a review was conducted by the court.

(e) At the review held every six months pursuant to subdivision (d), the reviewing body shall inquire about the progress being made

to provide a permanent home for the minor and shall determine all of the following:

- (1) The appropriateness of the placement.
- (2) The continuing appropriateness and extent of compliance with the permanent plan for the child.
- (3) The extent of compliance with the child welfare services case plan.
- (4) The adequacy of services provided to the child. The review shall also include a determination of the services needed to assist a child who is 16 years of age or older make the transition from foster care to independent living.

Each licensed foster family agency shall submit reports for each minor in its care, custody, and control to the court concerning the continuing appropriateness and extent of compliance with the minor's permanent plan, the extent of compliance with the case plan, and the type and adequacy of services provided to the minor.

Unless their parental rights have been permanently terminated, the parent or parents of the minor are entitled to receive notice of, and participate in, those hearings. It shall be presumed that continued care is in the interests of the minor, unless the parent or parents prove, by a preponderance of the evidence, that further efforts at reunification are the best alternative for the minor. In those cases, the court may order that further reunification services be provided to the parent or parents for a period not to exceed six months.

(f) At the review held pursuant to paragraph (3) of subdivision (d), in addition to the review held pursuant to subdivision (e), the court shall consider all permanency planning options for the child including whether the child should be returned to the home of the parent, placed for adoption, or appointed a legal guardian, or whether the child should remain in foster care. The court shall order that a hearing be held pursuant to Section 366.26 unless it determines by clear and convincing evidence that the child is not a proper subject for adoption or that there is no one willing to accept legal guardianship. Only upon that determination may the court order that the minor child remain in long-term foster care, without holding a hearing pursuant to Section 366.26.

(g) If, as authorized by subdivision (f), the court orders a hearing pursuant to Section 366.26, the court shall direct the agency supervising the child and the licensed county adoption agency, or the department when it is acting as an adoption agency in counties that are not served by a county adoption agency, to prepare an assessment as provided for in subdivision (i) of Section 366.21 or subdivision (b) of Section 366.22. A hearing held pursuant to Section 366.26 shall be held no later than 120 days from the date of the 12-month review at which it is ordered, and at that hearing the court shall determine

whether adoption, guardianship, or long-term foster care is the most appropriate plan for the minor.

SEC. 28. Section 387 of the Welfare and Institutions Code is amended to read:

387. An order changing or modifying a previous order by removing a minor from the physical custody of a parent, guardian, relative, or friend and directing placement in a foster home, or commitment to a private or county institution, shall be made only after noticed hearing upon a supplemental petition.

(a) The supplemental petition shall be filed by the probation officer in the original matter and shall contain a concise statement of facts sufficient to support the conclusion that the previous disposition has not been effective in the rehabilitation or protection of the minor or, in the case of a placement with a relative, sufficient to show that the placement is not appropriate in view of the criteria in Section 361.3.

(b) Upon the filing of the supplemental petition, the clerk of the juvenile court shall immediately set the same for hearing within 30 days, and the probation officer shall cause notice thereof to be served upon the persons and in the manner prescribed by Sections 335 and 337.

(c) An order for the detention of the minor pending adjudication of the petition may be made only after a hearing is conducted pursuant to Article 7 (commencing with Section 305).

SEC. 29. Section 11400 of the Welfare and Institutions Code is amended to read:

11400. For the purposes of this article, the following definitions shall apply:

(a) “Aid to Families with Dependent Children-Foster Care (AFDC-FC)” means the aid provided on behalf of needy children in foster care under the terms of this division.

(b) “Case plan” means a written document which at a minimum specifies the type of home in which the child shall be placed, the appropriateness of the home for meeting the child’s needs, the agency’s plan for ensuring that the child, family, and foster parents receive services, and the appropriateness of the services provided to the child, in order to meet the child’s needs while in foster care, and to reunify the child with his or her family, or, when reunification is not possible, to facilitate an alternate permanent plan.

(c) “Certified family home” means a family residence certified by a licensed foster family agency and issued a certificate of approval by that agency as meeting licensing standards, and used only by that foster family agency for placements.

(d) “Family home” means the family residency of a licensee in which 24-hour care and supervision are provided for children.

(e) “Small family home” means any residential facility, in the licensee’s family residence, which provides 24-hour care for six or



fewer foster children who have mental disorders or developmental or physical disabilities and who require special care and supervision as a result of their disabilities.

(f) “Foster care” means the 24-hour out-of-home care provided to children whose own families are unable or unwilling to care for them, and who are in need of temporary or long-term substitute parenting.

(g) “Foster family agency” means any individual or organization engaged in the recruiting, certifying, and training of, and providing professional support to, foster parents, or in finding homes or other places for placement of children for temporary or permanent care who require that level of care as an alternative to a group home. Private foster family agencies shall be organized and operated on a nonprofit basis.

(h) “Group home” means a nondetention privately operated residential home, organized and operated on a nonprofit basis only, of any capacity, that provides services in a group setting to children in need of care and supervision, as required by paragraph (1) of subdivision (a) of Section 1502 of the Health and Safety Code.

(i) “Periodic review” means review of a child’s status by the juvenile court or by an administrative review panel, which shall include a determination of the continuing need for placement in foster care, evaluation of the goals for the placement and the progress toward meeting these goals, and development of a target date for the child’s return home or establishment of alternative permanent placement.

(j) “Permanency planning hearing” means a hearing conducted by the juvenile court in which the child’s future status, including whether the child shall be returned home or another permanent plan shall be developed, is determined.

(k) “Placement and care” refers to the responsibility for the welfare of a child vested in an agency or organization by virtue of the agency or organization having (1) been delegated care, custody, and control of a child by the juvenile court, (2) taken responsibility, pursuant to a relinquishment or termination of parental rights on a child, (3) taken the responsibility of supervising a child detained by the juvenile court pursuant to Section 319 or 636, or (4) signed a voluntary placement agreement for the child’s placement; or to the responsibility designated to an individual by virtue of his or her being appointed the child’s legal guardian.

(l) “Preplacement preventive services” means services which are designed to help children remain with their families by preventing or eliminating the need for removal.

(m) “Relative” means a person who can be a “caretaker relative” of a dependent child under Section 406 of the Social Security Act. “Relative” also includes any such person who is related to the child’s half sibling.



(n) “Voluntary placement” means an out-of-home placement of a minor by (1) the county welfare department after the parents or guardians have requested the assistance of the county welfare department and have signed a voluntary placement agreement; or (2) the county welfare department licensed public or private adoption agency, or the department acting as an adoption agency, after the parents have requested the assistance of either the county welfare department, the licensed public or private adoption agency, or the department acting as an adoption agency for the purpose of adoption planning, and have signed a voluntary placement agreement.

(o) “Voluntary placement agreement” means a written agreement between either the county welfare department, a licensed public or private adoption agency, or the department acting as an adoption agency, and the parents or guardians of a minor which specifies, at a minimum, the following:

(1) The legal status of the child.

(2) The rights and obligations of the parents or guardians, the child, and the agency in which the child is placed.

(p) “Original placement date” means the most recent date on which the court detained a child and ordered an agency to be responsible for supervising the child or the date on which an agency assumed responsibility for a child due to termination of parental rights, relinquishment, or voluntary placement.

(q) “Transitional housing placement facility” means a community care facility licensed by the State Department of Social Services pursuant to Section 1559.110 of the Health and Safety Code to provide transitional housing opportunities to persons at least 17 years old, and not more than 18 years old unless they satisfy the requirements of Section 11403, who are in out-of-home placement under the supervision of the county department of social services or the county probation department, and who are participating in an independent living program.

SEC. 30. Section 16206 of the Welfare and Institutions Code is amended to read:

16206. (a) The purpose of the program is to develop and implement statewide coordinated training programs designed specifically to meet the needs of county child protective service social workers assigned emergency response, family maintenance, family reunification, permanent placement, and adoption responsibilities. It is the intent of the Legislature that the program include training for other agencies under contract with county welfare departments to provide child welfare services. In addition, the program shall provide training programs for persons defined as mandated child abuse reporters pursuant to Sections 11165 and following of the Penal Code. The program shall provide the following services to the extent possible within the total allocation. If allocations are insufficient, the

department, in consultation with the grantee or grantees and the Child Welfare Training Advisory Board, shall prioritize the efforts of the program, giving primary attention to the most urgently needed services. However, county child protective service social workers assigned emergency response responsibilities shall receive first priority for training pursuant to this act.

(b) The program shall provide practice-relevant training for mandated child abuse reporters and all members of the child welfare delivery system which will address critical issues affecting the well-being of children, and shall develop curriculum materials and training resources for use in meeting staff development needs of mandated child abuse reporters and child welfare personnel in public and private agency settings.

This training shall include all of the following:

- (1) Crisis intervention.
- (2) Investigative techniques.
- (3) Rules of evidence.
- (4) Indicators of abuse and neglect.
- (5) Assessment criteria, including the application of guidelines for assessment of relatives for placement according to the criteria described in Section 361.3.
- (6) Intervention strategies.
- (7) Legal requirements of child protection, including requirements of child abuse reporting laws.
- (8) Case management.
- (9) Using community resources.
- (10) Information regarding the dynamics and effects of domestic violence upon families and children.

The training may also include any or all of the following:

- (1) Child development and parenting.
- (2) Intake, interviewing, and initial assessment.
- (3) Casework and treatment.
- (4) Medical aspects of child abuse and neglect.

(c) Prior to January 1, 1989, the department shall provide the Legislative Analyst and the Select Committee on Children and Youth with a listing of the counties participating in the program, including the number of persons trained in each county.

(d) The training program shall assess the program's performance at least annually and forward it to the State Department of Social Services for an evaluation and report to the Legislative Analyst. The first report shall be forwarded to the Legislative Analyst no later than January 1, 1990, and on the first of January in any subsequent years. The assessment shall include at minimum the following:

- (1) The number of persons trained.
- (2) The type of training provided.
- (3) The degree to which the training is perceived by participants as useful in practice.

(e) The training program shall provide practice-relevant training to county child protective service social workers who screen referrals for child abuse or neglect and for all workers assigned to provide emergency response, family maintenance, family reunification, and permanent placement services. The training shall be developed in consultation with the Child Welfare Training Advisory Board and domestic violence victims' advocates and other public and private agencies that provide programs for victims of domestic violence or programs of intervention for perpetrators.

SEC. 31. Section 16501.1 of the Welfare and Institutions Code is amended to read:

16501.1. (a) The Legislature finds and declares that the foundation and central unifying tool in child welfare services is the case plan.

(b) The Legislature further finds and declares that a case plan ensures that the child receives protection and proper case management, and that services are provided to the parents or other caretakers as appropriate. A case plan shall be based upon the principles of this section and shall document that a preplacement assessment of the service needs of the child and family, and preplacement preventive services, have been provided, and that reasonable efforts to prevent out-of-home placement have been made.

(c) When out-of-home placement is used to attain case plan goals, the decision regarding choice of placement shall be based upon selection of the least restrictive or most familylike and most appropriate setting and selection of the environment best suited to meet the child's special needs and best interests, or both. The selection shall consider, in order of priority, placement with relatives, tribal members, and foster family, group care, and residential treatment pursuant to Section 7950 of the Family Code.

(d) A written case plan shall be completed within 30 days of the initial removal of the child or of the in-person response required under subdivision (f) of Section 16501 if the child has not been removed from his or her home, or by the date of the dispositional hearing pursuant to Section 358, whichever occurs first. The case plan shall be updated, as the service needs of the child and family dictate. At a minimum, the case plan shall be updated in conjunction with each status review hearing conducted pursuant to Section 366.21, and the hearing conducted pursuant to Section 366.25 or 366.26, but no less frequently than once every six months.

(e) The child welfare services case plan shall be comprehensive enough to meet the juvenile court dependency proceedings requirements pursuant to Article 6 (commencing with Section 300) of Chapter 2 of Part 1 of Division 2.

(f) The case plan shall be developed as follows:



(1) The case plan shall be based upon an assessment of the circumstances which required child welfare services intervention.

(2) The case plan shall identify specific goals, and the appropriateness of the planned services in meeting those goals.

(3) The case plan shall identify the original allegations of abuse or neglect, as defined in Article 2.5 (commencing with Section 11164) of Chapter 2 of Title 1 of Part 4 of the Penal Code, or the conditions cited as the basis for declaring the child a dependent of the court pursuant to Section 300, or all of these, and the other precipitating incidents which led to child welfare services intervention.

(4) The case plan shall include a description of the schedule of the social worker contacts with the child and the family or other caretakers. The frequency of these contacts shall be in accordance with regulations adopted by the State Department of Social Services. If the child has been placed in foster care out-of-state, the county social worker or a social worker on the staff of the social service agency in the state in which the child has been placed shall visit the child in the home or institution at least every 12 months and submit a report to the court on each visit.

(5) When out-of-home services are used, the frequency of contact between the natural parents or legal guardians and the child shall be specified in the case plan. The frequency of those contacts shall reflect overall case goals, and consider other principles outlined in this section.

(6) When out-of-home placement is made, the case plan shall include documentation of the provisions specified in subdivisions (b), (c), and (d) of Section 16002.

(7) When out-of-home placement is made in a foster family home, group home or other child care institution that is either a substantial distance from the home of the child's parent or out-of-state, the case plan shall specify the reasons why that placement is in the best interests of the child.

(8) When out-of-home services are used, the case plan shall include a recommendation regarding the appropriateness of unsupervised visitation between the child and any of the child's siblings. This recommendation shall include a statement regarding the child's and the siblings' willingness to participate in unsupervised visitation. If the case plan includes a recommendation for unsupervised sibling visitation, the plan shall also note that information necessary to accomplish this visitation has been provided to the child or to the child's siblings.

(9) When out-of-home services are used and the goal is reunification, the case plan shall describe the services to be provided to assist in reunification and the services to be provided concurrently to achieve legal permanency if efforts to reunify fail.

(10) (A) Parents and legal guardians shall have an opportunity to review the case plan, sign it whenever possible, and then shall receive

a copy of the plan. In any voluntary service or placement agreement, the parents or legal guardians shall be required to review and sign the case plan. Whenever possible, parents and legal guardians shall participate in the development of the case plan.

(B) Parents and legal guardians shall be advised that, pursuant to Section 1228.1 of the Evidence Code, neither their signature on the child welfare services case plan nor their acceptance of any services prescribed in the child welfare services case plan shall constitute an admission of guilt or be used as evidence against the parent or legal guardian in a court of law. However, they shall also be advised that the parent's or guardian's failure to cooperate, except for good cause, in the provision of services specified in the child welfare services case plan may be used in any hearing held pursuant to Section 366.21 or 366.22 as evidence.

(11) The case plan shall be included in the court report and shall be considered by the court at the initial hearing and each review hearing. Modifications to the case plan made during the period between review hearings need not be approved by the court if the casework supervisor for that case determines that the modifications further the goals of the plan.

(g) If the court finds, after considering the case plan, that unsupervised sibling visitation is appropriate and has been consented to, the court shall order that the child or the child's siblings be provided with information necessary to accomplish this visitation. Nothing in this section shall be construed to require or prohibit the probation officer's facilitation, transportation, or supervision of visits between the child and his or her siblings.

(h) The case plan documentation on sibling placements required under this section shall not require modification of existing case plan forms until the Child Welfare Services Case Management System is implemented on a statewide basis.

(i) The department, in consultation with the County Welfare Directors Association and other advocates, shall develop standards and guidelines for a model relative placement search and assessment process based on the criteria established in Section 361.3. These guidelines shall be incorporated in the training described in Section 16206. These model standards and guidelines shall be developed by January 1, 1999.

SEC. 32. In enacting this legislation, it is the intent of the Legislature that these provisions result in cost efficiencies. Any cost savings resulting from the implementation of these provisions shall only be used to supplement, not supplant, other children's services programs, including children's health and mental health initiatives and child welfare.

SEC. 33. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local

agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars (\$1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

Notwithstanding Section 17580 of the Government Code, unless otherwise specified, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

